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ORIGINAL

APPROVING THE "PALAU COMPACT OF FREE ASSOCIATION," AND FOR OTHER PURPOSES

JULY 22, 1986.—Ordered to be printed

Mr. UDALL, from the Committee on Interior Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.J. Res. 626]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the joint resolution (H.J. Res. 626) approving the "Palau Compact of Free Association," and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the joint resolution as amended do pass.

The amendment is as follows:

Page 2, line 3, strike all after the resolving clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This joint resolution may be cited as the "Palau Compact of Free Association Act".

(b) TABLE OF CONTENTS.—The table of contents for this joint resolution is as follows:

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

Sec. 101. Approval of Compact of Free Association.
(a) Approval.
(b) Reference to the Compact.
(c) Amendment, change, or termination of the compact and certain agreements.
(d) Effective date.
Sec. 102. Agreements with Palau.
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Sec. 103. Interpretation of and United States policy regarding Compact of Free Association.
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Sec. 104. Supplemental provisions.
(a) Domestic program requirements.
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(g) Noncompliance sanctions.
(h) Continuing programs and laws.
(i) Trust Territory debts to U.S. Federal agencies.
(j) Use of DOD medical facilities.
(k) Technical assistance.
(l) Prior Service Benefits Program.
(m) Indefinite land use payments.
(n) Annual reports on determinations under Compact section 313.
(o) User fees.
(p) Payments.
(q) Civic action teams.
(r) Inventory and study of most unique and significant natural, historical, etc., resources of Palau.
Sec. 105. Construction contract assistance.
(a) Assistance to U.S. firms.
(b) Authorization.
Sec. 106. Limitations.
(a) Prohibition.
(b) Termination.
Sec. 107. Timing.
Sec. 108. Implementation of audit agreements.
(a) Transmission of annual financial statements.
(b) Annual audits by the president.
(c) Authority of GAO.
Sec. 109. Compensatory adjustments.
(a) Additional programs and services.
(b) Amounts for adverse impact.
Sec. 110. Transitional Authorization.

TITLE II—COMPACT OF FREE ASSOCIATION

Sec. 201. Compact of Free Association.

TITLE ONE—GOVERNMENTAL RELATIONS

Article I—Self-Government.
Article II—Foreign Affairs.
Article III—Communications.
Article IV—Immigration.
Article V—Representation.
Article VI—Environmental Protection.
Article VII—General Legal Provisions.

TITLE TWO—ECONOMIC RELATIONS

Article I—Grant Assistance.
Article II—Program Assistance.
Article III—Administrative Provisions.
Article IV—Trade.
Article V—Finance and Taxation.

TITLE THREE—SECURITY AND DEFENSE RELATIONS

Article I—Authority and Responsibility.

Article II—Defense Facilities and Operating Rights.
Article III—Defense Treaties and International Security Agreements.
Article IV—Service in Armed Forces of the United States.
Article V—General Provisions.

TITLE FOUR—GENERAL PROVISIONS

Article I—Approval and Effective Date.
Article II—Conference and Dispute Resolution.
Article III—Amendment.
Article IV—Termination.
Article V—Survivability.
Article VI—Definition of Terms.
Article VII—Concluding Provisions.
Sec. 202. Jurisdiction.
(a) Maritime and territorial jurisdiction.
(b) Defense sites.
(c) Offenses.

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

SEC. 101. APPROVAL OF COMPACT OF FREE ASSOCIATION.

(a) APPROVAL.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of Palau is hereby approved, and Congress hereby consents to the agreements as set forth on pages 154 through 405 of House Document 99-193 of April 9, 1986 (hereafter in this joint resolution referred to as subsidiary or related agreements), as they relate to such Government, Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to the "Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(c) AMENDMENT, CHANGE, OR TERMINATION OF THE COMPACT AND CERTAIN AGREEMENTS.—(1) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof shall be effected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) To all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in any agreement that may be concluded at any time between the Government of the United States and the Government of Palau regarding friendship, cooperation and mutual security concluded pursuant to Sections 321 and 323 of the Compact referred to in section 462(h);

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact sections 175 and 221(a)(4), the terms of which are incorporated by reference into the Compact; and

(D) to the following subsidiary agreements or portions thereof:

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article X of the agreement referred to in section 462(f) of the Compact;

(iv) the agreement referred to in section 462(g) of the Compact;

(v) Articles II, III, IV, V, VI, and VII of the agreement referred to in section 462(h) of the Compact; and

(vi) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

(d) EFFECTIVE DATE.—(1) The President shall not agree to an effective date for the Compact, as authorized by this section, until after certifying to the Congress that—

(A) the Supreme Court of Palau has decided that the Compact is consistent with the Constitution of Palau and that transmission of the Compact to the United States by the President of Palau, and the other actions by the Government of Palau with respect to the Compact on and before the date of such transmission, were consistent with the Constitution and laws of Palau; and

(B) the agreements described in section 102 of this title have been concluded.

(2) Any agreement concluded with Palau pursuant to sections 102 of this title and any agreement which would amend, change, or terminate any subsidiary agreement or related agreement, or portion thereof, as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session).

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

(4) The subsidiary agreements or portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agreement referred to in section 462(b) of the Compact.

(B) Articles III, IV, V, VI, VII, VIII, IX, and X (except for Section 7 thereof) of the agreement referred to in section 462(f) of the Compact.

(C) Articles IV, V, X, XIV, XVI, and XVIII of the agreement referred to in section 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII of the agreement referred to in section 462(h) of the Compact.

(E) The agreement referred to in section 462(j) of the Compact.

(5) No agreement between the United States and the Government of Palau which would amend, change, or terminate any subsidiary or related agreement, or portion thereof, other than those set forth in subsection (d) of this section or paragraph (4) of this subsection, shall take effect until the President has transmitted such agreement to the President of the Senate and Speaker of the House of Representatives, together with an explanation of the agreement and the reasons therefore.

SEC. 102. AGREEMENTS WITH PALAU.

(a) LAW ENFORCEMENT ASSISTANCE.—

(1) AGREEMENT.—The President of the United States shall negotiate with the Government of Palau an agreement pursuant to section 175 of the Compact which is in addition to the Agreement pursuant to such section dated January 10, 1986, and transmitted to the Congress by the President on April 9, 1986. Such additional agreement shall provide as follows:

(A) MUTUAL ASSISTANCE IN LAW ENFORCEMENT.—The law enforcement agencies of the United States and Palau shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and Palau specified in subparagraph (C) of this paragraph. The United States and Palau will authorize mutual assistance with respect to investigations, inquiries, audits, and related activities by the law enforcement agencies of both Governments in the United States and Palau. In conducting activities authorized in accordance with this section, the United States and Palau will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

(B) NARCOTICS AND CONTROL OF ILLEGAL SUBSTANCES.—The United States and Palau will take all reasonable and necessary steps, as mutually agreed, based upon consultations in which the Attorney General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or Palau for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Chapter 31 of the Controlled Substances Act of Palau, or for the distribution of any such substance to or from Palau or to or from the United States or any of its territories or Commonwealths.

(C) OTHER CRIMINAL LAWS.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, preventing and prosecution of violations of the laws of the United States and the laws of Palau related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) TECHNICAL AND TRAINING ASSISTANCE.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of Palau to develop and adequately enforce laws of Palau and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 104(k) of this title may be used to reimburse State or local agencies providing such assistance.

(3) CONSULTATION.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this section, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) REPORT.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crime in Palau which has an impact upon United States jurisdiction, and propose measures which the United States and Palau should take in order better to prevent and prosecute violations of the laws of the United States and Palau. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning Palau.

(b) ECONOMIC DEVELOPMENT PLANS REVIEW PROCESS.—

(1) SUBMISSION.—Notwithstanding section 231 of the Compact, the President may agree to an effective date for the Compact pursuant to section 101 of this title if the Government of Palau agrees to submit economic development plans consistent with section 231 of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) though the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) UNITED STATES GOVERNMENT REVIEW.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until—

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) REPORT.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) VIEWS AND COMMENTS.—The report shall include the views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which Palau may wish to have included.

(c) AGREEMENT ON AUDITS.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of Palau modifications to the "Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association", which shall provide as follows:

(1) GENERAL AUTHORITY OF THE GAO TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of Palau under Articles I and II of Title Two of the Compact, and

(ii) any other assistance provided by the Government of the United States to the Government of Palau.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233

of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO'S ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least three years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government to Palau.

(3) REPRESENTATIVE STATUS FOR GAO REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be accorded the status set forth in Article V of Title One of the Compact.

(4) ANNUAL FINANCIAL STATEMENTS.—As part of the annual report submitted by the Government of Palau under section 231(b) of the Compact, the Government shall include annual financial statements which account for the use of all of the funds provided by the Government of the United States to the Government of Palau under the Compact or otherwise. Such financial statements shall be prepared in accordance with generally accepted accounting procedures, except as may otherwise be mutually agreed. Not later than 180 days after the end of the United States fiscal year with respect to which such funds were provided, each such statement shall be submitted to the President for audit and transmission to the Congress.

(5) DEFINITION OF AUDITS.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of Palau has met the requirements set forth in the Compact, or any related agreement entered into under the Compact, regarding the purpose for which such grants and other assistance are to be used; and

(B) The propriety of the financial transactions of the Government of Palau pursuant to such grants or assistance.

(6) COOPERATION BY PALAU.—The Government of Palau will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 103. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION.

(a) HUMAN RIGHTS.—In approving the Compact, the Congress notes the conclusion in the Statement of Intent of the Report of The Future Political Status Commission of the Congress of Micronesia in July, 1969, that "our recommendation of a free associated state is indissolubly linked to our desire for such a democratic, representative, constitutional government" and notes that such desire and intention are reaffirmed and embodied in the Constitution of Palau. The Congress also notes and specifically endorses the preamble to the Compact, which affirms that the governments of the parties to the Compact are founded upon respect for human rights and fundamental freedoms for all. The Secretary of State shall include in the annual reports on the status of internationally recognized human rights in foreign countries, which are submitted to the Congress pursuant to sections 116 and 502B of the Foreign Assistance Act of 1961, a full and complete report regarding the status of internationally recognized human rights in Palau.

(b) IMMIGRATION.—The rights of a bona fide naturalized citizen of Palau to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a non-immigrant, pursuant to the provisions of section 141(a)(3) of the Compact, shall not extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen

are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

(c) NONALIENATION OF LANDS.—The Congress endorses and encourages the maintenance of the policies of the Government of Palau to regulate, in accordance with their Constitutions and laws, the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Palau citizenship.

(d) NUCLEAR WASTE DISPOSAL.—In approving the Compact, the Congress understands that the Government of Palau will not permit any other government or any nongovernmental party to conduct in Palau any of the following activities:

(1) Test by detonation or dispose of any nuclear weapon, test, dispose of, or discharge any toxic chemical or biological weapon.

(2) Test, dispose of, or discharge any radioactive toxic chemical or biological material in an amount or manner which would be hazardous to the public health or safety.

(e) IMPACT OF COMPACT ON U.S. AREAS.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—In approving the Compact, it is not the intent of the Congress to cause any adverse consequences for the United States territories and Commonwealths or the State of Hawaii.

(2) ANNUAL REPORTS AND RECOMMENDATIONS.—One year after the date of enactment of this joint resolution and at one year intervals thereafter, the President shall report to the Congress with respect to the impact of the Compact on the United States territories and Commonwealths and on the State of Hawaii. Reports submitted pursuant to this paragraph (hereafter in this subsection referred to as "reports") shall identify any adverse consequence resulting from the Compact and shall make recommendations for corrective action to eliminate any such consequence. The reports shall pay particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social systems and infrastructure, and environmental regulation. With regard to immigration, the reports shall include statistics concerning the number of persons availing themselves of the rights described in section 141(a) of the Compact during the year covered by each report. With regard to trade, the reports shall include an analysis of the impact on the economy of American Samoa resulting from imports of canned tuna into the United States from Palau.

(3) OTHER VIEWS.—In preparing the reports, the President shall request the views of the Government of the State of Hawaii, and the governments of each of the United States territories and Commonwealths, the Federated States of Micronesia, the Marshall Islands, and Palau, and shall transmit the full text of any such views to the Congress as part of such reports.

(4) COMMITMENT OF CONGRESS TO REDRESS ADVERSE CONSEQUENCES.—The Congress hereby declares that, if any adverse consequences to United States territories and Commonwealths or the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences.

(5) DEFINITION OF U.S. TERRITORIES AND COMMONWEALTHS.—As used in this subsection, the term "United States territories and Commonwealths" means the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) IMPACT COSTS.—There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from Palau.

(f) FISHERIES MANAGEMENT.—In clarification of Title One, Article II, section 124 of the Compact:

(1) Nothing in the Compact of this joint resolution shall be interpreted as recognition by the United States of any claim by Palau to jurisdiction or authority over highly migratory species or fish during the time such species of fish are found outside the territorial sea of Palau.

(2) It is the understanding of Congress that none of the monies made available pursuant to the Compact or this joint resolution will be used by Palau for enforcement actions against any vessel of the United States on the basis of fishing by any such vessel for highly migratory species of fish outside the territorial sea of Palau in the absence of a licensing agreement.

(3) Appropriate United States officials shall apply the policies and provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) with regard to any action taken by Palau affecting any vessel of the United States engaged in fishing for highly migratory species of fish in waters outside the territorial seas of Palau. For the purpose of applying the provisions of section 5 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1975), monies made available to Palau pursuant to the provisions of the Compact or this joint resolution shall be treated as "assistance to the government of such country under the Foreign Assistance Act of 1961". For purposes of this joint resolution only, certification by the President in accordance with such section 5 shall be accompanied by a report to Congress on the basis for such certification, and such certification shall have no effect if by law Congress so directs prior to the expiration of 60 days during which Congress is in continuous session following the date of such certification.

(4) For the purpose of paragraphs (1) and (3) of this subsection—

(A) The term "vessel of the United States" has the same meaning as provided in the first section of the Fishermen's Protective Act of 1967 (22 U.S.C. 1971).

(B) The terms "fishing" and "highly migratory species" have the same meanings as provided in paragraphs (10) and (14), respectively, of section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(10) and (14)).

(5)(A) It is the policy of the United States of America—

(i) to negotiate and conclude with the governments of the Central, Western, and South Pacific Ocean (including Palau) a regional licensing agreement setting forth agreed terms of access for United States tuna vessels fishing in the region; and

(ii) that such an agreement should overcome existing jurisdictional differences and provide for a mutually beneficial relationship between the United States and the Pacific Island states that will promote the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean and the economic development of the region.

(B) At such time as an agreement referred to in subparagraph (A) is submitted to the Senate for advice and consent to ratification, the Secretary of State, after consultation with the Secretary of Commerce and other interested agencies and concerned governments, shall submit to the Congress a proposed long term regional fisheries development program which may include, but not be limited to—

(i) exploration for, and stock assessment of, tuna and other fish;

(ii) improvement of harvesting techniques;

(iii) gear development;

(iv) biological resource monitoring;

(v) education and training in the field of fisheries; and

(vi) regional and direct bilateral assistance in the field of fisheries.

(g) FOREIGN LOANS.--The Congress hereby reaffirms the United States position that the United States Government is not responsible for foreign loans or debt obtained by the Government of Palau. Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sums and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau. No party other than the Government of Palau or the Government of the United States shall have standing in any court of the United States, or any State, Territory, or Commonwealth of the United States, or the District of Columbia to seek any order attaching, garnishing, or otherwise affecting any of the sums and amounts payable to the Government of Palau under this joint resolution by reason of any claim with respect to a contract or debt of such Government entered into or incurred prior to the date of enactment of this joint resolution.

SEC. 144. SUPPLEMENTAL PROVISIONS.

(a) DOMESTIC PROGRAM REQUIREMENTS.—Except as may otherwise be provided in this joint resolution, all United States Federal programs and services extended to or operated in Palau are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and Commonwealths).

(b) RELATIONS WITH PALAU.—

(1) The United States representative to Palau pursuant to Article V of Title One of the Compact shall be appointed by the President with the advice and consent of the Senate, and shall be under the supervision of the Secretary of State, who shall have responsibility for government to government relations between the United States and Palau consistent with the authority of the Secretary of the Interior as set forth in this section.

(2) Appropriations made pursuant to the Compact or any other provision of this joint resolution may be made only to the Secretary of the Interior, who shall coordinate and monitor any program or activity provided to Palau by departments and agencies of the Government of the United States and related economic development planning pursuant to the Compact or pursuant to any other authorization except for the provisions of sections 163(e), 313, and 351 of the Compact and the authorization of the President to agree to an effective date pursuant to this resolution. Funds appropriated to the Secretary of the Interior pursuant to this paragraph shall not be allocated to other Departments or agencies.

(3) All programs and services provided to Palau by Federal agencies may be provided only after consultation with and under the supervision of the Secretary of the Interior, and the head of each Federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request.

(4) Any United States Government personnel assigned, on a temporary or permanent basis, to Palau shall, during the period of such assignment, be subject to the supervision of the United States representative to that area.

(5) The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance to federal departments and agencies. Such interagency group shall include the Secretary of the Interior and the Secretary of State.

(c) CONTINUING TRUST TERRITORY AUTHORIZATION.—The authorization provided by the Act of June 30, 1954, as amended (68 Stat. 330) shall remain available after the effective date of the Compact with respect to Palau for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or this joint resolution.

(2) Transition purposes, including but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and termination of the High Court; health and education as a result of exceptional circumstances; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(d) MEDICAL REFERRAL DEBTS.—

(1) PALAU.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact, the United States shall make available to the Government of Palau such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, including any territories and Commonwealths, by citizens of Palau before September 1, 1985.

(2) USE OF FUNDS.—In making funds available pursuant to this subsection, the President shall take such actions as he deems necessary to assure that the funds are used only for the payment of the medical expenses described in paragraph (1) of this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(e) SURVIVABILITY.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the Compact, any provisions of the Compact which remain effective after the termination of the Compact by the act of any party thereto and which are affected in any manner by provisions of this title shall remain subject to such provisions.

(f) REGISTRATION FOR AGENTS OF PALAU GOVERNMENT.—

(1) IN GENERAL.—Notwithstanding any provision of the Compact, after approval of the Compact any citizen of the United States who, without authority of the United States, acts as the agent of the Government of Palau with regard to matters specified in the provisions of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) that apply with respect to an agent of a foreign principal shall be subject to the requirements of such Act. Failure to comply with such requirements shall subject such citizen to the same penalties and provisions of law as apply in the case of the failure of such an agent of a foreign principal to comply with such requirements. For purposes of the Foreign

Agents Registration Act of 1938, Palau shall be considered to be a foreign country.

(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to a citizen of the United States employed by the Government of Palau with respect to whom the employing Government from time to time certifies to the Government of the United States that such citizen is an employee of the Government of Palau whose principal duties are other than those matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply with respect to an agent of a foreign principal. The agency or officer of the United States receiving such certifications shall cause them to be filed with the Attorney General, who shall maintain a publicly available list of the persons so certified.

(3) RESIDENT REPRESENTATIVE EXEMPTION.—Nothing in this subsection shall be construed as amending Section 152(b) of the Compact.

(g) NONCOMPLIANCE SANCTIONS.—

(1) AUTHORITY OF PRESIDENT.—The President of the United States shall have no authority to suspend or withhold payments or assistance with respect to—

(A) section 211(d)(2), 211(d)(3), 213, 221(b), or 223 of the Compact, or

(B) any agreements made pursuant to such sections of the Compact,

unless such suspension or withholding is imposed as a sanction due to noncompliance by the Government of Palau with the obligations and requirements of such sections of the Compact or such agreements.

(2) ACTIONS INCOMPATIBLE WITH UNITED STATES AUTHORITY.—The Congress expresses its understanding that the Government of Palau will not act in a manner incompatible with the authority and responsibility of the United States for security and defense matters in or related to Palau pursuant to the Compact, including the agreement referred to in section 462(h) thereof. The Congress further expresses its intention that any such act on the part of the Palau Government will be viewed by the United States as a material breach of the Compact. The Government of the United States reserves the right in the event of such a material breach of the Compact by the Government of Palau to take action, including (but not limited to) the suspension in whole or in part of the obligations of the Government of the United States to that Government.

(h) CONTINUING PROGRAMS AND LAWS.—

(1) PALAU.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to section 224 of the Compact, the programs and services of the following agencies shall be made available to Palau.

(A) the Legal Services Corporation;

(B) the Public Health Service; and

(C) the Farmers Home Administration.

(2) SECTION 214 DETERMINATION.—The determination by the Government of the United States under section 214 of the Compact shall be as provided in appropriation Acts.

(3) TORT CLAIMS.—At such time as the Trusteeship Agreement ceases to apply to Palau, the provisions of section 177 of the Compact regarding settlement and payment of tort claims shall apply to employees of any Federal agency of the Government of the United States which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the Compact or this Act except for provisions of Title Three of the Compact and of the subsidiary or related agreements related to such Title, in such area to which such Agreement formerly applied. For purposes of this subparagraph (B), persons providing such service or carrying out such function pursuant to a contract with a Federal agency shall be deemed to be an employee of the contracting Federal agency.

(i) TRUST TERRITORY DEBTS TO U.S. FEDERAL AGENCIES.—The Government of Palau shall not be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to such department, agency, independent agency, office, or instrumentality by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(j) USE OF DOD MEDICAL FACILITIES.—Following approval of the Compact, the Secretary of Defense shall make available the medical facilities of the Department of Defense for use by citizens of Palau who are properly referred to such facilities by government authorities responsible for provision of medical services in Palau. The Secretary of Defense is hereby authorized to cooperate with such authorities in order to permit use of such medical facilities for persons properly referred by such authorities. The Secretary of Health and Human Services is hereby authorized and

directed to continue to make the services of the National Health Service Corps available to the residents of Palau to the same extent and for so long as such services are authorized to be provided to persons residing in any other areas within or outside the United States.

(k) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Technical assistance may be provided pursuant to section 222 of the Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government. Such assistance by the Forest Service, the National Marine Fisheries Service, the Soil Conservation Service, the Fish and Wildlife Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act (80 Stat. 915; 16 U.S.C. 470–470t), shall be on a nonreimbursable basis. During the period the Compact is in effect, the grant programs under the National Historic Preservation Act shall continue to apply to Palau in the same manner and to the same extent as prior to the approval of the Compact. Funds provided pursuant to sections 102(a), 104(c), 104(i), 104(j), 104(k), 104(l), and 104(m) of this joint resolution shall be in addition to and not charged against any amounts to be paid to Palau pursuant to the Compact or the subsidiary or related agreements.

(2) PELELIU AND ANGAUR.—Not later than one year after the date of enactment of this joint resolution, the Secretary of Agriculture, after appropriate studies conducted in consultation with the Government of Palau, shall report to the President and the Congress concerning the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of the islands of Peleliu and Angaur to overcome the effects on the suitability for agriculture of such islands resulting from impacts on such islands of the Second World War. Upon the request of the Government of Palau, the President shall make the report of the Secretary of Agriculture available to the Government of Palau. Technical assistance to accomplish such rehabilitation and restoration, if feasible, may be provided to the Government of Palau on a nonreimburseable basis, subject to the availability of appropriated funds.

(l) PRIOR SERVICE BENEFITS PROGRAM.—Notwithstanding any other provision of law, persons who on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed for the United States Navy or the Government of the Trust Territory of the Pacific Islands prior to July 1, 1968, shall continue to receive such payments on and after the effective date of the Compact.

(m) INDEFINITE LAND USE PAYMENTS.—There are authorized to be appropriated such sums as may be necessary to complete repayment by the United States of any debts owed for the use of various lands in Palau prior to January 1, 1985.

(n) ANNUAL REPORTS ON DETERMINATIONS UNDER COMPACT SECTION 313.—The President shall report annually to the Congress on determinations made by the United States in the exercise of its authority under section 313 of the Compact. Each such report shall describe the following, on a classified basis if necessary:

(1) The actions that the Government of Palau were required to refrain from pursuant to the determinations of the United States.

(2) The justification for each determination by the United States, and the position of the other Government concerned with respect to such determination.

(3) The effect of the determination on the authority and responsibility of the other government to conduct foreign affairs in accordance with section 121 of the Compact.

(4) Any domestic effect in Palau resulting from the determination, including any restriction on the civil and political rights of the citizens thereof.

(o) USER FEES.—Any person in Palau shall be liable for user fees, if any, for services provided in Palau by the Government of the United States to the same extent as any person in the United States would be liable for fees, if any, for such services in the United States.

(p) PAYMENTS.—The enactment of sections 103(h), 103(k), and 105(m) of the Compact of Free Association Act of 1985 (Public Law 99–239) and subsection 104(l) of this joint resolution shall be deemed to constitute a pledge of the full faith and credit of the United States for the full payment of sums and amounts as specified in such subsections, and the obligations of the United States under such subsections shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under such subsections and this subsection, notwithstanding the provisions of section 1502 of title 28, United States Code, and

which court's decisions shall be reviewable as provided by the laws of the United States.

(q) CIVIC ACTION TEAMS.—In recognition of the special development needs of Palau, the United States shall make available United States Military Civic Action Teams for use in Palau under terms and conditions mutually agreed upon by the Government of the United States and the Government of Palau. The Government of Palau may use the amount of $250,000 annually from current account funds provided pursuant to section 211 of the Compact to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection.

(r) INVENTORY AND STUDY OF MOST UNIQUE AND SIGNIFICANT NATURAL, HISTORICAL, ETC., RESOURCES OF MICRONESIA.—The Secretary of the Interior shall conduct, upon request of Palau, the Federated States of Micronesia or the Marshall Islands, and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural, and recreational resources of Palau, the Federated States of Micronesia or the Marshall Islands. Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. The inventory and study shall also identify areas or sites which, if they were located in the United States, would qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places. A full report on such inventory and study shall be transmitted to Palau or the Federated States of Micronesia or the Marshall Islands, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after the date of enactment of this joint resolution.

SEC. 105. CONSTRUCTION CONTRACT ASSISTANCE.

(a) ASSISTANCE TO U.S. FIRMS.—In order to assist the Government of Palau through private sector firms which may be awarded contracts for construction or major repair of capital infrastructure within Palau, the President shall consult with the Government of Palau with respect to any such contracts, and the President shall enter into agreements with such firms whereby such firms will, consistent with applicable requirements of such Governments—

(1) to the maximum extent possible, employ citizens of Palau;

(2) to the extent that necessary skills are not possessed by citizens of Palau, provide on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and

(3) provide specific training or other assistance in order to enable the Government to engage in long-term maintenance of infrastructure.

Assistance by such firms pursuant to this section may not exceed 20 percent of the amount of the contract and shall be made available only to such firms which meet the definition of United States firm under the nationality rule for suppliers of services of the Agency for International Development (hereafter in this section referred to as "United States firms"). There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to cover any additional costs incurred by the Government of Palau if such Government, pursuant to an agreement entered into with the United States, applies a preference on the award of contracts to United States firms, provided that the amount of such preference does not exceed 10 percent of the amount of the lowest qualified bid from a non-United States firm for such contract.

SEC. 106. LIMITATIONS.

(a) PROHIBITION.—The provisions of Chapter II of title 18, United States Code, shall apply in full to any individual who has served as the President's Personal Representative for Micronesian Status Negotiations or who is or was an officer or employee of the Office for Micronesian Status Negotiations or who is or was assigned or detailed to that Office or who served on the Micronesia Interagency Group, except that for the purposes of this section, clauses (i) and (ii) of section 207(b) of such title shall read as follows: "(i) having been so employed, within three years

after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within three years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—".

(b) TERMINATION.—Effective upon the date of the termination of the Trust Territory of the Pacific Islands with respect to Palau, the Office for Micronesian Status Negotiations is abolished and no department, agency, or instrumentality of the United States shall thereafter contribute funds for the support of such Office.

SEC. 107. TIMING.

No payment may be made pursuant to the Compact nor under any provision of this joint resolution prior to October 1, 1986.

SEC. 108. IMPLEMENTATION OF AUDIT AGREEMENTS.

(a) TRANSMISSION OF ANNUAL FINANCIAL STATEMENT.—Upon receipt of the annual financial statement described in sections 102(c)(4), the President shall promptly transmit a copy of such statement to the Congress.

(b) ANNUAL AUDITS BY THE PRESIDENT.—(1) The President shall cause an annual audit to be conducted of the annual financial statement described in section 102(c)(4). Such audit shall be conducted in accordance with the Generally Accepted Government Auditing Standards promulgated by the Comptroller General of the United States. Such audit shall be submitted to the Congress not later than 180 days after the end of the United States fiscal year.

(2) The President shall develop and implement procedures to carry out such audits. Such procedures shall include the matters described in section 102(c)(2) of this title.

(c) AUTHORITY OF GAO.—The Comptroller General of the United States shall have the authority to conduct the audits referred to in section 102(c)(1) of this title.

SEC. 109. COMPENSATORY ADJUSTMENTS.

(a) ADDITIONAL PROGRAMS AND SERVICES.—In addition to the programs and services set forth in Section 221 of the Compact, and pursuant to Section 224 of the Compact, the services and programs of the following United States agencies shall be made available to Palau: The Federal Deposit Insurance Corporation, Small Business Administration, Economic Development Administration, and Rural Electrification Administration, Job Training Partnership Act, Job Corps, and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b) AMOUNTS FOR ADVERSE IMPACT.—The Government of Palau may submit to Congress reports concerning the overall financial and economic impact on Palau resulting from revisions made to Articles IV and V of Title Two of the 1984 version of the Compact, as set forth in Committee Print Number 4 of the Committee on Interior and Insular Affairs of the House of Representatives of the 99th Congress. There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, such amounts as may be necessary, but not to exceed $20 million for Palau, as provided in appropriation Acts, to further compensate the Government (in addition to the compensation provided in subsection (a) of this section) for adverse impacts, if any, on the finances and economics of such area resulting from such revisions. At the end of the initial fifteen-year term of the Compact, should any portion of the total amount of funds authorized in this subsection not have been appropriated, such amount not yet appropriated may be appropriated for Palau based on such Government's showing of such adverse impact, if any, as provided in this subsection.

SEC. 110. TRANSITIONAL AUTHORIZATION.

Notwithstanding Section 171 of Article VII of Title One of P.L. 99-239 or Section 171 of Article VII of Title One of H.J. Res. 626, there are hereby authorized to be appropriated for purposes of an orderly reduction of United States programs and services in the Federated States of Micronesia, the Marshall Islands and Palau which are not otherwise specifically authorized to be continued in any or all such areas the following amounts:

(1) For fiscal year 1987, an amount not to exceed 75 percent of the total amount appropriated for such programs for fiscal year 1986;

(2) For fiscal year 1988, an amount not to exceed 50 percent of the total amount appropriated for such programs for fiscal year 1986; and

(3) For fiscal year 1989, an amount not to exceed 25 percent of the total amount appropriated for such programs for fiscal year 1986.

TITLE II—COMPACT OF FREE ASSOCIATION

SEC. 201. COMPACT OF FREE ASSOCIATION

The Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PALAU

Affirming that their Governments and the relationship between their Governments are founded upon respect for human rights and fundamental freedoms for all, and

Affirming the common interests of the United States of America and the people of Palau in creating close and mutually beneficial relationships through a free and voluntary association of their Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the people of Palau; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted a Constitution appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish a new government-to-government relationship in accordance with a new political status based on the freely-expressed wishes of the people of Palau and appropriate to their particular circumstances; and

Recognizing that the people of Palau have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of their Government into this Compact of Free Association by the people of Palau constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationship of free association which provides a full measure of self-government for the people of Palau; and

FURTHER AGREE that the relationship of free association derives from and is as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Government of the freely associated state of Palau in regard to this relationship of free association derives from and is as set forth in this Compact.

TITLE ONE

GOVERNMENT RELATIONS

Article I

Self-government

Section 111

The people of Palau, acting through their duly elected government established under their constitution, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Republic of Palau has the capacity to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact and the Government of the United States recognizes that the Government of Palau, in the exercise of this capacity, may enter into, in its own name and right, treaties and other international agreements with governments and regional and international organizations.

(b) In the conduct of its foreign affairs the Government of Palau confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

The Government of the United States shall support application by the Government of Palau for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept citizens of Palau for training and instruction at the United States Foreign Service Institute, established under 22 U.S.C. 4021, or similar training under terms and conditions to be mutually agreed.

Section 123

In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of Palau shall consult with the Government of the United States. The Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of Palau on matters which the Government of the United States regards as relating to or affecting the Government of Palau, and shall provide, on a regular basis, information on regional foreign policy matters.

Section 124

(a) The Government of Palau has authority to conduct its foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and nonliving resources from the sea, seabed or subsoil to the full extent recognized under international law.

(b) The Government of Palau has jurisdiction and sovereignty over its territory, including its land and internal waters, territorial seas, the airspace superjacent thereto only to the extent recognized under international law.

Section 125

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as administering authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Section 126

The Government of the United States shall accept responsibility for those actions taken by the Government of Palau in the area of foreign affairs, only as may from time to time be expressly and mutually agreed.

Section 127

The Government of the United States may assist or act on behalf of the Government of Palau in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of Palau undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 128

At the request of the Government of Palau and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of Palau for travel outside of Palau the Marshall Islands, the Federated States of Micronesia, the United States and its territories and possessions.

Article III

Communications

Section 131

(a) The Government of Palau has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communication assistance in accordance with the terms of a related agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations in Palau; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations in Palau in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 *et seq.*, and the Communications Satellite Act of 1962, 47 U.S.C. 721 *et seq.*, over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in Palau.

(b) The Government of Palau may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the Government of Palau the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Government Palau shall permit the Government of the United States to operate telecommunications services in Palau to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of related agreements which shall come into effect simultaneously with this Compact.

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of Palau;

(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

(3) a naturalized citizen of Palau, who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of Palau, the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to

the right of the Government of Palau to regulate occupations in Palau in a nondiscriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Section 141 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of Palau or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of Palau, commences employment with that Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of Palau, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of Palau on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States and the Government of Palau may establish and maintain representative offices in the capitals of the other.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Article VI

Environmental Protection

Section 161

The Government of the United States and the Government of Palau declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Palau.

Section 162

(a) The Government of the United States and the Government of Palau agree that with respect to the activities of the Government of the United States in Palau, and with respect to substantively equivalent activities of the Government of Palau, each of the Governments shall be bound by such environmental protection standards as may be mutually agreed for the purpose of carrying out the policy set forth in this Compact.

Section 163

In order to carry out the policy set forth in this Article, the Government of the United States and the Government of Palau agree to the following undertakings.

(a) The Government of the United States:

(1) shall apply environmental standards substantively similar to those in effect on the day preceding the effective date of this Compact to any activity requiring the preparation of an Environmental Impact Statement under the provisions of the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 *et seq.*

(2) shall develop, prior to conducting any activity included within the category described in this Section, appropriate mechanisms, including regulations or other standards and procedures, to regulate such activity in Palau in a manner appropriate to the special governmental relationship set forth in this Compact. The Government of the United States shall provide the Government of Palau with the opportunity to comment formally during the development of such mechanisms.

(b) The Government of Palau shall develop standards and procedures to protect the environment of Palau. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Government of Palau, taking into account the particular environment of Palau, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 163(a)(1) prior to conducting activities in Palau substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 163(a), including any standard or procedure applicable thereunder, and Section 163(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of Palau.

(d) Disputes arising under this Article, except for Section 163(c), shall be resolved exclusively in accordance with Article II of Title Four.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under this Article if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the Government of Palau shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the Government of Palau.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to Palau as of the effective date of this Compact.

Section 172

(a) Every citizen of Palau who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any nonresident alien.

(b) The Government and every citizen of Palau shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706.

Section 173

The Government of the United States and the Government of Palau, agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in Palau pursuant to this Compact and its related agreements and by that Government in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Government of Palau shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of Palau.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Government of Palau, shall not be immune from the jurisdiction of the courts of United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of Palau in any case in which the action

is based on a commercial activity of the defendant Government carried out where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought. This subsection shall apply only to actions based on commercial activities entered into or injuries or losses suffered on or after the effective date of this Compact.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Government of Palau regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188–3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100–4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Government of Palau confirms that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of Palau to grant relief from judgments in appropriate cases.

Section 177

(a) Federal agencies of the Government of the United States which provide services and related programs in Palau are authorized to settle and pay tort claims arising in Palau from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 177(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 177(a) which cannot be settled under Section 177(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of Palau shall provide for:

(1) the administrative settlement of claims referred to in Section 177(a), including designation of local agents in Palau, such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such related agreements; and

(2) arbitration, referred to in Section 177(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 177(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

In order to assist the Government of Palau in its efforts to advance the well-being of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide to the Government of Palau on a grant basis the following amounts:

(a) $12 million annually for ten years commencing on the effective date of this Compact, and $11 million annually for five years commencing on the tenth anniversary of the effective date of this Compact, for current account operations and maintenance purposes, which amounts commencing on the fourth anniversary of the effective date of this Compact shall include a minimum annual distribution of $5 million from the fund specified in Section 211(f).

(b) $2 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact as a contribution to efforts aimed at achieving

increased self-sufficiency in energy production, of which annual amounts not less than $500,000 shall be devoted to the energy needs of those parts of Palau not served by its central power-generating facility.

(c) $150,000 annually for fifteen years commencing on the effective date of this Compact as a contribution to current account operations and maintenance of communications systems, and the sum of $1.5 million, to be made available concurrently with the grant assistance provided during the first year after the effective date of this Compact, for the purpose of acquiring such communications hardware as may be located within Palau or for such other current or capital account activity as the Government of Palau may select.

(d) $631,000 annually on a current account basis for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) for the surveillance and enforcement by Government of Palau of its maritime zone;

(2) for health and medical programs, including referrals to hospital and treatment centers; and

(3) for a scholarship fund to support the post-secondary education of citizens of Palau attending United States accredited, post-secondary institutions in Palau, the United States, its territories and possessions, and states in free association with the United States. The curricular criteria for the award of scholarships shall be designed to advance the purposes of the plan referred to in Section 231.

(e) The sum of $666,800 as a contribution to the commencement of activities pursuant to Section 211(d)(1).

(f) The sum of $66 million on the effective date of this Compact, and the sum of $4 million concurrently with the grant assistance to be made available during the third year after the effective date of this Compact, to create a fund to be invested by the Government of Palau in issues of bonds, notes or other redeemable instruments of the Government of the United States or other qualified instruments which may be identified by mutual agreement of the Government of the United States and the Government of Palau. Investment of the fund in qualified instruments of United States nationality, and the distribution of sums derived from such investment to the Government of Palau, shall not be subject to any form of taxation by the United States or its political subdivisions. The Government of the United States and the Government of Palau shall set forth in a separate agreement, which shall come into effect simultaneously with this Compact, provisions for the investment, management and review of the fund so as to allow for an agreed minimum annual distribution from its accrued principal and interest commencing upon the effective date of this Compact for fifty years. The objective of this sum is to produce an average annual distribution of $15 million commencing on the fifteenth anniversary of this Compact for thirty-five years. Any excess or variance from the agreed minimum annual distributions which may be produced from these sums shall accrue to or be absorbed by the Government of Palau unless otherwise mutually agreed in accordance with the provisions of the separate agreement referred to in this paragraph. The annual distributions produced from these sums are not subject to Sections 215 and 236.

Section 212

In order to assist the Government of Palau in its efforts to advance the economic development and self-sufficiency of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide:

(a) To the people of Palau, a road system in accordance with mutually agreed specifications, the construction of which shall be completed prior to the sixth anniversary of the effective date of this Compact; and

(b) To the Government of Palau, the sum of $36 million, during the first year after the effective date of this Compact, for capital account purposes.

Section 213

The Government of the United States shall provide on a grant basis to the Government of Palau the sum of $5.5 million in conjunction with Article II of Title Three. This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of Palau, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Palau.

Section 214

All funds previously appropriated to the Trust Territory of the Pacific Islands for the Government of Palau which are unobligated by the Government of the Trust Territory as of the effective date of this Compact shall accrue to the Government of Palau for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Section 215

Except as otherwise provided, the amounts stated in Sections 211(a), 211(b), 211(c) and 212(b) shall be adjusted for each fiscal year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to Palau, in accordance with and to the extent provided in the separate agreement referred to in Section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*;

(3) of the United States Federal Aviation Administration; and

(4) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Palau particularly in the fields of education and health care, shall make available, as provided by the laws of the United States,

(1) the annual amount of $2 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232; and

(2) the sums of $4.3 million, $2.9 million and $1.5 million, respectively, during the first, second and third years after the effective date of this Compact, which sums shall be used by the Government of Palau as current account funds to finance programs similar to those programs of the United States that applied to Palau prior to the effective date of this Compact and that provided financial assistance for education to any institution, agency, organization or permanent resident of Palau or to the College of Micronesia.

(c) The Government of the United States shall make available to Palau such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the related agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to Palau.

Section 222

The Government of Palau may request, from time to time, technical assistance from the Federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its law and which shall grant such technical assistance in a manner which gives priority consideration to Palau over other recipients not a part of the United States, its territories or possessions and equivalent consideration to Palau with respect to other states in Free Association with the United States.

Section 223

The citizens of Palau who are receiving post-secondary education assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of Palau may agree from time to time to the extension to Palau of additional United States grant assistance and of United States services and programs as provided by the laws of the United States.

Article III

Administrative Provisions

Section 231

(a) The annual expenditure by the Government of Palau of the grant amounts specified in Article I of this Title shall be in accordance with an official national development plan promulgated by the Government of Palau and concurred in by the Government of the United States prior to the effective date of this Compact. This plan may be amended from time to time by the Government of Palau.

(b) The Government of the United States and the Government of Palau recognize that the achievement of the goals of the plan referred to in this Section depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of Palau, including the Government of the United States, and may, in addition, be affected by the impact of exceptional, economically adverse circumstances. The Government of Palau shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of this plan and on its use of the funds specified in this Article. This report shall outline the achievements of the plan to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. The availability of such additional economic assistance from the Government of the United States shall be subject to the authorization and appropriation of funds by the Government of the United States.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in Palau, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in related agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Government of Palau, shall determine and implement procedures for the periodic audit of all grants and other assistance made under this Title. Such audits shall be conducted at no cost to the Government of Palau.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands and in Palau or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Government of Palau as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the personal property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of Palau, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Government of Palau that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of

the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Article I of this Title. The obligation of the Government of the United States under Article I of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

Palau is not included in the customs territory of the United States.

Section 242

The President of the United States shall proclaim the following tariff treatment for articles imported from Palau which shall apply during the period of effectiveness of this Title:

(a) Unless otherwise excluded, articles imported from Palau, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 USC 2463(b); 2464(c)), shall be exempt from duty.

(b) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia, the Marshall Islands and Palau during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

(c) The duty-free treatment provided under paragraph (1) shall not apply to:

(1) watches, clocks and timing apparatus provided for in sub-part E of part 2 of schedule 7 of the Tariff Schedules of the United States;

(2) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

(3) textile and apparel articles which are subject to textile agreements; and

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 USC 2461 et seq.) on April 1, 1984.

(d) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of Palau, an appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from Palau which are not exempt from any duty under paragraphs (a), (b), (c) and (d) of Section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff Schedules of the United States and all products of the United States imported into Palau shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage, or use.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of Palau. Should the Government of Palau act to institute another currency, the terms of an

appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of Palau may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact, be made according to the United States Internal Revenue Code.

Section 253

A citizen of Palau, domiciled therein and who is a nonresident and not a citizen of the United States, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of Palau, the Government of Palau shall have authority to impose tax upon income derived by a resident of Palau from sources without Palau in the same manner and to the same extent as the Government of Palau imposes tax upon income derived from within its jurisdiction. If the Government of Palau exercises such authority as provided in this subsection, any individual resident of Palau who is subject to tax by the Government of the United States on income which is also taxed by the Government of Palau shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of Palau" shall be deemed to include any person who was physically present in Palau for a period of 183 or more days during any taxable year. The relief from liability referred to in this subsection means only

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the United States Internal Revenue Code of 1954.

(b) If the Government of Palau subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

(a) For purposes of section 936 of the Internal Revenue Code of 1954 Palau shall be treated as if it was a possession of the United States.

(b) Subsection (a) of this Section shall not apply to Palau for any period after December 31, 1986, during which there is not in effect between Palau and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.

(c) If the tax incentives extended to Palau under subsection (a) of this Section are, at any time during which the Compact is in effect, reduced, the United States Secretary of the Treasury shall negotiate an agreement with the Government of Palau under which, when such agreement is approved by law, Palau will be provided with benefits substantially equivalent to such reduction in benefits. If within the 1-year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sentence is not approved by law, the matter shall be submitted to the Arbitration Board established pursuant to Section 424. For purposes of Article V of this Title, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such Board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.

(d) For purposes of section 274(h)(3)(A) of the Internal Revenue Code of 1954, the term "North American area" shall include Palau.

Section 256

This Article shall apply to income earned, and transactions occurring, after September 30, 1985, in taxable years ending after such date.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

The territorial jurisdiction of the Republic of Palau shall be completely foreclosed to the military forces and personnel or for the military purposes of any nation except the United States of America, and as provided for in Section 312.

Section 312

The Government of the United States has full authority and responsibility for security and defense matters in or relating to Palau. Subject to the terms of any agreements negotiated pursuant to Article II of this Title, the Government of the United States may conduct within the lands, water and airspace of Palau the activities and operations necessary for the exercise of its authority and responsibility under this Title. The Government of the United States may invite the armed forces of other nations to use military areas and facilities in Palau in conjunction with and under the control of United States Armed Forces.

Section 313

The Government of Palau shall refrain from actions which the Government of the United States determines, after consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to Palau.

Article II

Defense Sites and Operating Rights

Section 321

The Government of the United States may establish and use defense sites in Palau, and may designate for this purpose land and water areas and improvements in accordance with the provisions of a separate agreement which shall come into force simultaneously with this Compact.

Section 322

(a) When the Government of the United States desires to establish or use such a defense site specifically identified in the separate agreement referred to in Section 321, it shall so inform the Government of Palau which shall make the designated site available to the Government of the United States for the duration and level of use specified.

(b) With respect to any site not specifically identified in the separate agreement referred to in Section 321, the Government of the United States shall inform the Government of Palau, which shall make the designated site available to the Government of the United States for the duration and level of use specified, or shall make available one alternative site acceptable to the Government of the United States. If such alternative site is unacceptable to the Government of the United States, the site first designated shall be made available after such determination.

(c) Compensation in full for designation, establishment or use of defense sites is provided in Title Two of this Compact.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in Palau, are set forth in related agreements which shall come into effect simultaneously with this Compact.

Section 324

In the exercise in Palau of its authority and responsibility under this Title, the Government of the United States shall not use, test, store or dispose of nuclear, toxic chemical, gas or biological weapons intended for use in warfare and the Government of Palau assures the Government of the United States that in carrying out its security and defense responsibilities under this Title, the Government of the United States has the right to operate nuclear capable or nuclear propelled vessels

and aircraft within the jurisdiction of Palau without either confirming or denying the presence or absence of such weapons within the jurisdiction of Palau.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to Palau, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as administering authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in Palau. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of Palau.

Article IV

Service in the Armed Forces of the United States

Section 341

Any citizen of Palau entitled to the privileges of Section 131 of this Compact shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from Palau as may be nominated by the Government of Palau, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of Palau shall establish a joint committee empowered to consider disputes which may arise under the implementation of this Title and its related agreements.

(b) The membership of the joint committee shall comprise selected senior officials of each of the participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of the joint committee. For the meetings of the joint committee, each of the Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, the joint committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The joint committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the joint committee shall meet promptly in combined session with other such joint committees so notified. The joint committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in the joint committee shall be referred to the Government of the United States and the Government of Palau for resolution, and the Government of Palau shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

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Section 352

In the exercise of its authority and responsibility under this Compact, the Government of the United States shall accord due respect to the authority and responsibility of the Government of Palau under this Compact and to the responsibility of the Government of Palau to assure the well-being of Palau and its people. The Government of the United States and the Government of Palau agree that the authority and responsibility of the United States set forth in this Title are exercised for the mutual security and benefit of Palau and the United States, and that any attack on Palau would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, or threat thereof, the Government of the United States would take action to meet the danger to the United States and Palau in accordance with its constitutional processes.

Section 353

(a) The Government of the United States shall not include the Government of Palau as a named party to a formal declaration of war, without the consent of the Government of Palau.

(b) Absent such consent, this Compact is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of Palau which arise out of armed conflict subsequent to the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of Palau, subsequent to completion of the following:

(a) Approval by the Government of Palau in accordance with its constitutional processes;

(b) Approval by the people of Palau in a referendum called on this Compact; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States and the Government of Palau shall confer promptly at the request of the other on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States or the Government of Palau, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of Palau cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 425

Should a dispute be referred to arbitration as provided for in Section 423, an arbitration board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms.

(a) An arbitration board shall consist of a chairman and two other members, each of whom shall be a citizen of a party to the dispute and each of the two parties to the dispute shall appoint one member to the arbitration board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the arbitration board shall be selected from its own standing list by the other party to the dispute. Each government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a chairman within 15 days after selection of the other members of the arbitration board. Failing agreement on a chairman, the chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The arbitration board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV, and VI of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the arbitration board shall have one vote. Each decision of the arbitration board shall be reached by majority vote.

(d) In determining any legal issue, the arbitration board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The arbitration board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the arbitration board shall endeavor to render its decision within 30 days after the conclusion of arguments. The arbitration board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the arbitration board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of Palau.

Article III

Amendment and Review

Section 431

The provisions of this Compact may be amended at any time by mutual agreement of the Government of the United States and the Government of Palau in accordance with their respective constitutional processes.

Section 432

Upon the fifteenth and thirtieth and fortieth anniversaries of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this Compact and its related agreements and shall consider the overall nature and development of their relationship. In these formal reviews, the governments shall consider the operating requirements of the Government of Palau and its progress in meeting the development objectives set forth in the plan referred to in Section 231(a). The governments commit themselves to take specific measures in relation to the findings of conclusions resulting from the review. Any alteration to the terms of this Compact or its related agreements shall be made by mutual agreement, the terms of this Compact and its related agreements shall remain in force until otherwise amended or terminated pursuant to Title Four of this Compact.

Article IV

Termination

Section 441

This Compact may be terminated by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to its constitutional processes, by the Government of Palau subject to Section 452 if the people of Palau vote in a plebiscite to terminate. The Government of Palau shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

Should termination occur pursuant to Section 442 or 443, the following provisions of this Compact shall remain in full force and effect until the fiftieth anniversary of the effective date of this Compact and thereafter as mutually agreed:

(a) Article I and Section 233 of Title Two;

(b) Title Three; and

(c) Articles II, III, V and VI of Title Four.

Section 453

Notwithstanding any other provision of this Compact:

(a) The provisions of Section 311, even if Title Three should terminate, are binding and shall remain in effect for a period of 50 years and thereafter until terminated or otherwise amended by mutual consent;

(b) The related agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms; and

(c) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the people of Palau.

Section 454

Any provision of this Compact which remains in effect by operation of Section 452 shall be construed and implemented in the same manner as prior to any termination of this Compact pursuant to Section 442 or 443.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Palau, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security

Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "Palau" is used in a geographic sense and includes the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States consistent with the Compact and its related agreements.

(d) "Government of Palau" means the Government established and organized by the Constitution of Palau including all the political subdivisions and entities comprising that Government.

(e) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full time studies as long as such person maintains that status, or who has been physically present in the United States or Palau for less then one year, or who is a dependent of a resident representative, as described in Section 152.

(f) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in Palau during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(g) "Defense Sites" means those land and water areas and improvements thereon in Palau reserved or acquired by the Government of Palau for use by the Government of the United States, as set forth in the related agreements referred to in Section 321.

(h) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(i) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(j) "Official National Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of Palau. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(k) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(l) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of Palau shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, and which shall be construed and implemented in a manner consistent with this Compact, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to Palau Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in Palau, Concluded Pursuant to Section 182 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Regarding United States Economic Assistance to the Government of Palau Concluded Pursuant to Section 211(f) of the Compact of Free Association;

(e) Agreement Regarding Construction Projects in Palau Concluded Pursuant to Section 212(a) of the Compact of Free Association;

(f) Agreement Regarding Federal Programs and Services, Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(g) Agreement Regarding Property Turnover, Concluded Pursuant to Section 234 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in Palau Concluded Pursuant to Sections 321 and 322 of the Compact of Free Association; and

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association.

(j) Agreement regarding the Jurisdiction and Sovereignty of the Republic of Palau over its Territory and the Living and Non-living Resources of the Sea.

Article VII

Concluding Provisions

Section 471

(a) The Government of the United States and the Government of Palau agree that they have full authority under their respective constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) The Government of the United States and the Government of Palau shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, that their laws, regulations and administrative procedures are such as to effect the commitments referred to in Section 471(a).

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States and the Government of Palau. Each government shall possess an original English language version.

IN WITNESS THEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and the Government of Palau.

DONE AT PALAU, THIS 6TH DAY

OF JANUARY, ONE THOUSAND NINE HUNDRED EIGHTY-FIVE

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

FRED M. ZEDER, II

DONE AT KOROR, PALAU, THIS 10TH DAY

OF JANUARY, ONE THOUSAND NINE HUNDRED EIGHTY-FIVE

FOR THE GOVERNMENT

OF

THE REPUBLIC OF PALAU

LAZARUS E. SALII

SEC. 302. JURISDICTION.

(a) MARITIME AND TERRITORIAL JURISDICTION.—With respect to Section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in Palau.

(b) DEFENSE SITES.—The defense sites of the United States established in Palau in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in Section 7, Title 18, United States Code.

(c) OFFENSES.—(1) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the Territory of Guam by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(2) The District Court of Guam shall have jurisdiction to try all criminal offenses against the United States, including the laws of Guam made applicable to the defense sites in Palau by virtue of subsection (c)(i) of this section, committed by any person referred to in subsection (a) of this section.

(3) The District Court of Guam may appoint one or more magistrates for the defense sites in Palau. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code, provided, however that such Magistrates shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

I. SUMMARY

PURPOSE

The purpose of H.J. Res. 626, as amended, is to approve a Compact of Free Association between the United States and the government of Palau. Palau is currently part of the Trust Territory of the Pacific Islands (TTPI) established in 1947 by the United Nations under a trusteeship agreement administered by the United States.[1]

[1] For background and history on the Trust Territory of the Pacific Islands, including Palau, please see House Committee Report 99-188, Part 2.

In February of 1986, a United Nations-observed plebiscite on this latest compact took place in Palau. Seventy-two percent of those voting approved the compact. (The Compact Act of 1985 (P.L. 99-239) approved a Compact between the United States and two other entities in the TTPI—namely, the Federated States of Micronesia (FSM) and the Marshall Islands. (See House Report 99-188, Part 2.) The fourth entity, the Northern Mariana Islands, entered into a separate agreement for commonwealth status which was approved by the U.S. Congress in 1976 (P.L. 94-241) and will go into effect when the trusteeship is terminated.)

H.J. Res. 626, as amended, and the subsidiary agreements to the Palau Compact, provides terms and conditions which will define the future relationship between the United States and Palau and lays the groundwork for the termination of the trusteeship. (It should be noted here that in late May of 1986 the Trusteeship Council of the United Nations approved a resolution to seek termination of the trusteeship this year before the Security Council.)

The Compact relationship provides to the United States—

(1) the right indefinitely to deny access to the territory, air space, and territorial waters of Palau; and

(2) access to certain Palau lands for defense and national security purposes for fifty years.

The relationship provides to the people of Palau such benefits as:

(1) a $70 million investment trust fund designed to produce an average annual distribution of $15 million beginning on the fifteenth anniversary of the Compact for 35 years.

(2) recognition by the United States of the right of the Palau people to self-determination; sovereignty over domestic affairs; and control of their foreign policy in consultation with the United States;

(3) a commitment from the United States to defend Palau from outside aggression;

(4) a 53-mile road system to be built in Palau and paid for by the United States;

(5) continued operation of certain U.S. programs currently operating in Palau; and

(6) free entry into the United States.

COMPACT CHANGES

Six Committees of the House of Representatives examined the two earlier Compacts: Interior and Insular Affairs; Foreign Affairs; Ways and Means; Judiciary; Merchant Marine and Fisheries; and Armed Services. The Public Lands Subcommittee alone held a very extensive series of hearings on the FSM and Marshalls Compact legislation in 1984 and 1985. As a result of the close scrutiny given the documents, numerous potential problems were addressed in the joint resolution (see House Report 99-188, Part 2) that was signed into law January 14, 1986.

Similar provisions, where applicable, have been included in the Palau Compact legislation.

Additonally, the Interior Committee recommends inclusion of provisions that would:

—require the President of the United States to certify that no legal impediment would prevent the United States from carrying out fully its responsibilities and exercising its rights under the defense and national security title of the Compact, before the President can agree to an effective date for the Palau Compact. (This was added because of the lawsuit against the Compact pending in the Palau Supreme Court as discussed in more detail elsewhere in this Report.)
—shield the U.S. funds going to Palau under the Compact from attachment, garnishment, or other diversion by third parties claiming under a contract or debt incurred prior to the date of enactment of this joint resolution.
—direct the Secretary of Agriculture to conduct a study on the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of the outer islands of Peleliu and Angaur. These islands were bulldozed by the U.S. after World War II and have been unproductive since that time.
—make it clear that Congress intended that certain programs and services provided in P.L. 99-239 and in this legislation be funded by bringing them under a pledge of the full faith and credit of the United States.
—allow Palau to request that DOD deploy to Palau a Civic Action Team when needed.
—authorize the Secretary of the Interior, upon request of the government of the FSM, the Marshalls or Palau to conduct, through the National Park Service Director, a comprehensive inventory and study of the most unique and significant natural, historical, cultural, and recreational resources of those areas and to report to the Congress on such inventory and study.
—authorize the continuaton of federal programs currently available to the three governments in fiscal 1986 (but not available under the Compacts) for several more years, but at a declining amount per year, in order to provide for an orderly transition period for these governments.

OVERSIGHT STATEMENT, COMMITTEE CONSIDERATION AND RECOMMENDATION

The Palau Compact was forwarded to the Congress on April 9, 1986 (H. Doc. 99-193). Three hearings on the Palau Compact were conducted by the Public Lands Subcommittee in 1986: on April 18, witnesses were from the executive branch of the U.S. government; on April 28, Palau President Lazarus Salii testified; and on May 20, public witnesses were heard. While these hearings were legislative in character, various inquiries of an oversight nature resulted. It is expected that the Committee will carefully monitor implementation of this joint resolution. No recommendations were received pursuant to Rule X, clause 2(b).

The Compact was introduced on a "by request" basis on May 6, 1986 (H.J. Res. 626), by Subcommittee Chairman John F. Seiberling on behalf of himself and Chairman Morris K. Udall, Chairman Dante Fascell, Representative Stephen Solarz, Representative Lagomarsino and Representative Blaz.

On June 19, 1986, H.J. Res. 626 was favorably reported with an amendment, by the Public Lands Subcommittee. Subsequently, on June 25, the resolution was ordered reported, as amended, by voice vote.

THE COMMITTEE AMENDMENT

The Committee recommends an amendment in the nature of a substitute. Its provisions are discussed in detail in the Section-by-Section Analysis of this Report.

SECTION-BY-SECTION ANALYSIS OF HOUSE JOINT RESOLUTION 626, AS AMENDED

TITLE I

SEC. 101. APPROVAL OF COMPACT OF FREE ASSOCIATION

Subsection 101(a).—This subsection approves the Compact and subsidiary agreements with respect to Palau, subject to the terms and conditions of Title I of the joint resolution as amended.

Reference to the Compact

Subsection 101(b).—This subsection provides that in the joint resolution, as amended, references to "the Compact" include references to the subsidiary agreements which have been negotiated with Palau. The subsidiary agreements, which include detailed provisions to implement the broader policies established in the Compact itself, are incorporated into the Compact and given the same legal status, insofar as Congressional approval is concerned.

Subsection 101(c).—This subsection sets forth requirements regarding any amendment, change or termination of the Compact and certain agreements to it.

Effective Date

Subsection 101(d).—This subsection provides that the President cannot agree to an effective date for the Palau Compact until the Congress has been provided with a certification that two specified preconditions have been fulfilled.

The first precondition is that the President has determined that the Compact has been approved in accordance with section 411 of the Compact and that there is no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact (that is, relating to security and defense).

The second precondition is that the agreements described in section 102 of the joint resolution have been concluded.

The requirement for a Presidential certification with regard to the first precondition was added by the Committee in recognition of the fact that the validity of the actions of the Government of Palau in approving the Compact and in transmitting it to the Government of the United States is the subject of litigation commenced in the courts of Palau. The challenges to the actions of the Government of Palau raise questions concerning the construction to be given to provisions of the constitution and laws of Palau. The Com-

mittee understands that only the Supreme Court of Palau can definitively pronounce upon the terms and significance of Palau's constitution and laws, and it is the expectation of the Committee that the President and other officers of the United States will recognize the necessity of awaiting a conclusive ruling by the Supreme Court of Palau before the President can transmit to the Congress a certification that the first precondition specified in paragraph (1) of subsection 101(d) has been fulfilled.

As to the second precondition, the President cannot agree to an effective date for the Compact (and therefore implementation of the Compact cannot begin) until the President has completed negotiations for, and there have been put into effect, several agreements with the Palau government, as specified in Section 102. (These agreements must meet the requirements of this Section and the negotiations are not authorized to conclude agreements which do not meet each and all those requirements.) Negotiations toward these agreements are to begin promptly after enactment of this joint resolution, and once agreements have been reached (but before they can be submitted to Congress or executed on behalf of the United States) the Congress must be fully consulted. Once the proposed agreements are transmitted to Congress, the executive branch must wait for 30 calendar days for continuous session (as specified in the joint resolution) before proceeding to execute them on behalf of the United States.

SEC. 102. AGREEMENTS WITH PALAU

Section 102 specified the agreements between the Governments of Palau and the United States which the President is to negotiate. The subject matter of each such agreement is dealt with in the relevant subsection.

Law Enforcement Economic Development Plans, Revenue Process and Audits

Subsection 102(a).—This subsection deals with law enforcement, the economic development plans review process and audits. It provides that the President is to negotiate an agreement with Palau to supplement the existing subsidiary agreement for the implementation of Section 175 of the Palau Compact. This law enforcement agreement is to provide for mutual assistance in law enforcment, mutual efforts to control narcotics and illegal substances, assistance to prevent and prosecute violations of certain laws of the United States and Palau, technical and training assistance, consultation with affected law enforcement agencies and an annual report on the implementation of this subsection.

Subsection 102(b).—This subsection requires the government of Palau to submit economic development plans consistent with section 231 of the Palau Compact to the government of the U.S. for concurrence at intervals no greater than every 5 years, for the duration of the Compact. It stipulates that the United States shall not concur in those development plans until after the President of the U.S. has conducted a review and reported the findings of the President to the U.S. Congress, and the Congress has had 30 days to review the findings of the President.

Section 102(c).—This subsection requires the President of the U.S., in consultation with the Comptroller General of the U.S., to negotiate with the government of Palau modifications to the "Agreement Concerning Procedures for the Implementation of the United States Economic Assistance, Programs and Services Provided in the Compact of Free Association" which shall provide: 1) the Comptroller General of the U.S. with authority to audit all grants, program assistance and other assistance provided to the Palau government under the Compact as well as any other assistance provided to Palau by the U.S. government. It also gives the GAO authority to have access to the personnel and records relevant to such audits, requires the maintenance of records and documents regarding each such grant or other assistance to be kept for at least 3 years after the date they were provided, confers on the Comptroller General and his duly authorized representatives the status similar to the representative status set forth in Article V of Title One of the Compact, and provides for annual financial statements to be submitted to the President of the U.S. and hence to the Congress.

SEC. 103. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION

Section 103 includes a number of subsections which express United States interpretations of several portions of the Compact or establish United States policy with regard to the Compact and its implementation.

Human Rights

Subsection 103(a).—This section expresses the sense of Congress that Palau will continue to have a democratic, constitutional form of government and will continue to respect internationally recognized standards of human rights and fundamental freedoms. Additionally, it provides that the Secretary of State, in his or her annual reports on the status of human rights in foreign countries, shall submit a full and complete report regarding the status of human rights in Palau.

Immigration

Subsection 103(b).—This subsection expresses the intent of the Congress that naturalized citizens of Palau may enter, work, and reside in the United States (including the States and insular areas) under Section 141(a)(3) of the Compact only when such individuals establish to the satisfaction of appropriate United States officials that they did not obtain naturalized citizenship primarily to gain admission into the United States.

To fulfill the purpose of Section 103(b), the Immigration and Naturalization Service (and other agencies as may be necessary) must develop and implement procedures requiring documents of identity and approval for entry. These would be used to determine the status of Palau citizens coming into the United States and its insular areas. First, a determination must be made as to whether the prospective entrants are naturalized citizens of Palau. If they are, then it must be determined whether these individuals become naturalized primarily to enter the United States or its insular areas.

Such persons would be denied entry. Any person born in Palau would be entitled to enter the United States under the terms of the Compact.

The provision is intended to ensure that Palau is not used—whether intentionally or not—as a "way station" for the entry of third-country nationals who could not otherwise enter the United States. The Committee believes that the preferential immigration treatment that Compact Section 141 would provide Palau citizens compared with citizens of other nations is appropriate in view of the closer relationship which Palau would have with the United States. Section 103(b) is included to ensure that this preferential treatment is not abused and to ensure that American communities are not faced with unintended adverse impacts because of abuse.

Non-Alienation of Lands

Subsection 103(e).—This subsection expresses the sense of Congress that the goverment of Palau during the duration of the Compact, should continue to regulate the alienation of interests in real estate so as to restrict ownership of those interests to persons of Palau citizenship. Given the scarcity of land in Micronesia, and the importance of land ownership in the culture of the people of Micronesia, the Committee believes that the Palau government should make every effort to preserve the opportunity for citizens to maintain ownership of limited land resources.

Nuclear Waste Disposal

Subsection 103(d).—This subsection expresses, as a matter of Congressional intent, that the Palau government will not permit any other government or any nongovernmental party to conduct in Palau such activities as testing or disposing of any nuclear weapons, toxic chemicals, or biological weapons.

Impact of Compact on U.S. Areas

Subsection 103(e).—This subsection expresses the intent of Congress that, in approving the Palau Compact, adverse consequences from its implementation should be avoided in other American areas of the Pacific—specifically, Hawaii, American Samoa, Guam and the Northern Mariana Islands. To further this objective, the President is to report annually concerning impacts resulting from the Compact and make recommendations for corrective actions. These reports are to focus on trade, taxation, immigration, labor laws, minimum wages, and environmental regulation. The immigration reports should inlcude information indicating where citizens of Palau entering the U.S. are settling, as well as statistical information concerning the extent of immigration to the U.S. by such persons.

The subsection includes a declaration that the Congress will act sympathetically and expeditiously to redress any adverse consequences and it authorizes requisite funds to be appropriated to the Secretary of the Interior for fiscal years beginning after September 30, 1986 to cover incremental increased costs for education, social services and other costs directly resulting from immigration to Hawaii, Guam, American Samoa, and the Northern Mariana Is-

lands from Palau. See also pp. 21-22 of House Report 99-188, Part 2.

Fisheries Management

Subsection 103(f).—This subsection is included in order to make clear the way in which the United States interprets the provisions of the Compact bearing on this subject, and in particular Compact Section 124 which states that the foreign affairs capacities of Palau include conduct of foreign affairs relating to law of the sea and marine resource matters. The subsection provides:

(1) That nothing in the Compact nor in this Act is to be interpreted as recognition by the United States of any claim by the Palau government to jurisdiction or authority over highly migratory species of fish during the time such species are found outside the territorial sea of Palau. The most commercially significant example of such species is highly-migratory tuna.

(2) That none of the monies made available through the Compact or the joint resolution will be used by Palau for enforcement actions against any U.S. vessel because of such vessel's fishing for tuna outside the territorial sea of Palau due to the absence of a licensing agreement.

(3) Should Palau take any action against any U.S. vessel found fishing for tuna in waters outside the territorial seas of Palau, U.S. officials shall apply the Magnuson Fishery Conservation and Management Act and the Fishermen's Protective Act of 1967 to such action, as in similar cases elsewhere.

(4) That for purposes of this subsection certain words, spelled out in the legislation, have meanings as provided for in the two Acts cited above in (3).

(5) That U.S. policy is to negotiate and conclude with various Pacific Ocean governments, including Palau, a regional licensing agreement setting forth agreed terms of access for U.S. tuna vessels fishing in the region, and that such an agreement will provide for a mutually beneficial relationship between the U.S. and the Pacific Island governments to promote the development of the tuna and other latent fisheries resources of that area of the world as well as its economic development. Such an agreement, when completed, is to be submitted to the Senate for ratification.

Foreign Loans

Subsection 103(g).—In this subsection, Congress reaffirms the U.S. position that the U.S. government is not responsible for foreign loans or debt obtained by the Palau government. Additionally, the subsection stipulates that neither the Treasury Secretary nor any other officer or agent of the U.S. shall pay or transfer any portion of the money payable to the Palau government under this joint resolution to any other party other than the Palau government. It also states that no party other than the Palau government or the U.S. government shall have standing in any court of the U.S. or any State, Territory, or Commonwealth of the U.S. or the District of Columbia to seek any attachment or garnishment of the money payable to the Palau government under this joint resolution

because of any contracts entered into or debts incurred prior to the date of enactment of this joint resolution.

SEC. 104. SUPPLEMENTAL PROVISIONS

Section 104 contains provisions supplementary to those in other sections of Title I, dealing with various matters related to the Compact and its implementation. Each of the subsections deals with a different topic.

Domestic Program Requirements

Subsection 104(a).—This subsection provides that under the Compact, certain U.S. federal programs and services are to continue to operate in Palau. This provision stipulates that all such programs and services shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations that are applicable to U.S. territories or the U.S. mainland, unless otherwise provided in this resolution. For example, this means that historic preservation programs provided under the substitute shall continue to be subject to the requirements of Sections 106 and 110 of the National Historic Preservation Act; thus all properties of significance in the history, prehistory, archeology, and culture of Palau will continue to be eligible for inclusion in the National Register of Historic Places, and the Advisory Council on Historic Preservation will promulgate guidelines to assist Federal agencies in carrying out their programs and services with sensitivity for the traditional culture of Palau.

Relations With Palau

Subsection 104(b).—This section sets forth the future relationship between Palau and the United States. It provides that there shall be a U.S. Representative to Palau who shall be appointed by the President with the advice and consent of the Senate and who shall be under the Secretary of State and shall be responsible for government-to-government relations, consistent with the authority of the Secretary of the Interior as set forth in this section.

This section also provides that generally, all appropriations made pursuant to the Palau Compact or any other provision of this joint resolution may be made only to the Secretary of the Interior, who shall coordinate and monitor all programs and activities provided to Palau by the U.S. government, with the exception of sections 163(e), 313 and 351 and the setting of the effective date.

All programs and services provided to Palau by federal agencies may be provided only after consultation with and supervision of the Secretary of the Interior.

Any U.S. government personnel assigned to Palau while in Palau shall be subject to the supervision of the U.S. Representative to Palau.

And finally, the President is authorized to appoint an interagency group on freely associated states' affairs to provide policy guidance to federal departments and agencies, and must include in this group both the Secretary of the Interior and the Secretary of State.

Continuing Trust Territory Authorization

Subsection 104(c).—This subsection provides that the 1954 authorization statute for the TTPI government shall continue to remain available after the effective date of the Compact for two purposes: (1) for any purposes authorized by the Compact or the accompanying resolution prior to October 1, 1986; and (2) for transition purposes (indefinitely) such as technical assistance, maintenance of infrastructure, etc.

Medical Referral Debts

Subsection 104(d).—This subsection makes available to the Palau government such sums as may be necessary for it to pay any medical referral debts incurred prior to September 1, 1985. Lacking adequate medical services to provide certain kinds of medical care, Palau must refer seriously ill patients to hospitals in Guam, Hawaii and on the U.S. mainland. These referrals are made at no cost or at minimal cost to the patients, and consequently result in significant costs to the government of Palau.

The General Accounting Office, at the request of this Committee in 1983, conducted a study on ways to reduce the cost of medical referral programs in Micronesia and American Samoa. The report determined that at the start of fiscal year 1984, the various Pacific Basin governments (including the FSM, the Marshall Islands, Palau, and others) owed $6.2 million. At that time, GAO, which released its report on August 9, 1984, stated that unless the problem of unpaid bills was resolved, some U.S. and private hospitals threatened to suspend medical services to patients referred by these governments.

While it was recognized that these governments were not sufficiently budgeting their own funds and the funds they received from the Interior Department to cover medical program costs, it was also noted at a later date that at some hospitals there was no person who was responsible for determining when a specific patient could reasonably be dismissed, so that excessive costs could be avoided.

To help resolve the immediate problem, the Committee has included the same provision applied to the FSM and Marshalls Compacts which effectively forgives the debts incurred before September 1, 1985 so that future access to these hospitals may continue after the Compact goes into effect. This relief should provide Palau with a fresh start which it is hoped can be monitored and controlled in the future. It is most important that the Palau government not be prevented from using these facilities in the future because of past debt.

Survivability

Subsection 104(e).—This subsection provides that any provisions of the Compact which may remain effective after the termination of the Compact by an act of any party thereto will (so far as such provisions are affected by the provisions of Title I) remain subject to the relevant provisions of Title I. Section 443 of the Compact authorizes Palau to terminate the Compact, provided certain specified procedures (including a plebiscite) are followed. Section 453 of the

Compact provides that even if such termination should occur, certain specified parts of the Compact will remain in full force and effect until the fiftieth anniversary of the Compact's effective date. This subsection thus supplements Section 453 of the Compact.

Registration of Agents of Micronesian Governments

Subsection 104(f).—This subsection provides that any U.S. citizen who, without specific authority of the United States, represents the Government of Palau with regard to the matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply to an agent of a foreign principal, shall be subject to the requirements of that Act. The effect of this subsection is to put U.S. citizens on the same footing as U.S. citizens so acting with regard to any other foreign government. The Committee does not intend to extend the scope of the Registration Act to cover U.S. citizens employed by the Palau government who do not "represent" the government, as for example in cases of U.S. citizens working as teachers or general government employees working in administrative, legislative, or judicial offices since they are not engaged in activities specified in the Registration Act.

Non-Compliance Sanctions

Subsection 104(g).—This subsection specifies mechanisms that are to be made available to deal with material breaches of the Compact by the Palau government in those cases in which the United States has submitted the matter to arbitration and obtained a ruling upholding the contention that such breach has occurred.

Paragraph one stipulates which payments or assistance the President of the United States cannot suspend or withhold under this section.

Paragraph two specifies that it is the sense of Congress that the Plau government will not act in a manner incompatible with the authority and responsibility of the U.S. for security and defense matters, including the agreement referred to in section 462(h). Congress further expresses its intention that any such act on the part of the Palau government will be viewed by the U.S. as a material breach of the Compact. The U.S. government reserves the right in the event of such a material breach by Palau to take appropriate action, including the suspension in whole or in part of the obligations of the U.S. government to the Palau government.

Continuing Programs and Laws

Subsection 104(h).—This subsection provides that the Farmers Home Administration, the Legal Services Corporation and the Public Health Service shall continue to be available to Palau.

Additionally, it further defines how section 214 of the Compact is to be implemented.

And lastly it states that once the trusteeship agreement ceases to apply to Palau, the provisions of section 177 of the Compact regarding settlement and payment of tort claims shall apply to employees of any U.S. government agency that provides any service or carries out any other function under the terms of this joint resolution except for Title Three provisions of the Compact and the related subsidiary agreements thereto.

Trust Territory Debts to U.S. Federal Agencies

Subsection 104(i).—This subsection stipulates that the Palau government shall not be required to pay to any U.S. department, independent agency, or other agency any amounts owed to the U.S. by the TTPI government as of the effective date of the Compact. The Committee believes that any debts incurred by the TTPI government, an instrument of the U.S., should not be inherited by the individual Micronesian governments.

Use of DOD Medical Facilities

Subsection 104(j).—Subcommittee hearings on the Compacts produced conflicting information as to whether the Compact as sent to the Congress authorized the Department of Defense to continue to make available to the Micronesian governments those medical facilities in the TTPI, Hawaii and on the U.S. mainland that were heretofore available to them. This provision makes clear that such facilities are to be available. The Palau government would, however, be responsible for paying for the cost of using these facilities.

Additionally, this subsection provides that the Secretary of Health and Human Services shall continue to make available to Palau, the services of the National Health Service Corps, for as long as these services are available to persons residing in any other areas within or outside the U.S. The National Health Service Corps has been the major source of medical personnel for the Micronesian governments. Since these areas are remote, they experience tremendous difficulties in securing the services of qualified medical personnel for their islands. It is of utmost importance and concern to this Committee that this source not be denied them.

Technical Assistance

Subsection 104(k).—This subsection provides continued technical assistance to Palau by U.S. agencies and departments. Such technical assistance by the Forest Service, the National Marine Fisheries Service, the Soil Conservation Service, the Fish and Wildlife Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act shall be on a nonreimbursable basis. While the Compact is in effect, the grant programs under the National Historic Preservation Act shall continue to apply to Palau in the same manner and to the same extent as prior to the approval of the Compact.

Additionally, this section provides that not later than one year after the date of enactment of this joint resolution, the Secretary of Agriculture, after appropriate studies conducted in consultation with the Palau government, shall report to the President and the Congress regarding the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of two outer islands of Palau, namely, Angaur and Peleliu. Both islands were bulldozed after World War II battles. Technical assistance to achieve such rehabilitation and restoration, if feasible, may be provided to the Palau government on a nonreimbursable basis, subject to the availability of appropriated funds.

Prior Service Benefits Program

Subsection 104(l).—This subsection provides that those persons who, on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the TTPI for their services for the U.S. Navy or for the TTPI government prior to July 1, 1968, shall continue to receive such payments on and after the effective date of the Compact.

Testimony in 1984 before the Subcommittee on Public Lands and National Parks by the former Chief Actuary of the U.S. Social Security Administration confirmed the Subcommittee's opinion that any obligations with respect to this program, which was created by the U.S. and TTPI governments and has been financed by it to date, should continue to remain with the U.S. Government.

Indefinite Land Use Payments

Subsection 104(m).—This subsection deals with outstanding obligations for the use of privately owned lands. While the U.S. Government has paid most of the indefinite land use payments owed in Micronesia for use of private land for public purposes, it has been brought to the Committee's attention that some $2 million remains unpaid. (Such land has been used for TTPI government buildings, schools, courthouses, airports, etc.) This subsection directs that these obligations be paid.

Annual Reports on Determinations Under Compact Section 313

Subsection 104(n).—This subsection deals with determinations by the United States, under section 313 of the Compact, that certain actions by Palau would be incompatible with the authority and responsibility of the United States for security and defense matters. Under that section of the Compact, the Palau government is to refrain from taking such actions. Subsection 104(n) requires the President to report annually to the Congress on determinations made pursuant to section 313 of the Compact. The reports are to include: a description of the actions from which the Palau government was required to refrain; the justification for each U.S. determination (and the position of the Palau government); a statement as to the effect of the determination on the authority and responsibility of the Palau government to conduct its foreign affairs; and discussion of any domestic effect in Palau resulting from each such U.S. determination, including any restriction on the civil and political rights of the citizens of Palau.

User Fees

Subsection 104(o).—This subsection provides that any person in Palau shall be liable for user fees for services provided in Palau by the U.S. government to the same extent as any person in the U.S. would be liable for such fees.

Payments

Subsection 104(p).—This subsection brings certain provisions of P.L. 99-239 and of his joint resolution under the full faith and credit pledge of the United States, making payments thereunder

enforceable in the U.S. Claims Court or its successor court. These provisions provide for radiological health care for some 170 nuclear victims from Rongelap and Utrik; agricultural and food programs for the Enewetak and Bikini people; the establishment of the Enjebi Community Trust Fund; and the continued payments by the U.S. of the Prior Services Benefits Program.

Civic Action Teams

Subsection 104(q).—This subsection authorizes the United States to make available, at the request of the Palau government, U.S. military Civic Action Teams under certain terms and conditions.

Inventory and Study of Most Unique and Significant Natural, Historical, Etc., Resources of Micronesia

Subsection 104(r).—This subsection authorizes the Secretary of the Interior, upon the request of any of the three Micronesian governments (Palau, the FSM or the Marshalls), through the National Park Service Director, to conduct a comprehensive inventory and study of the most unique and significant natural, historical, cultural and recreational resources of any of those areas in order to describe and evaluate them for purposes of both preservation and tourism. This comprehensive study and inventory shall be submitted to the governments involved as well as the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee no later than two complete calendar years after the date of enactment of this joint resolution. The inventory and study shall also identify areas or sites which, if they were located in the United States, would qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places. This does not mean that only those areas or sites which be appealing to the United States should be identified. It means that as sites and areas of great cultural and historic importance to those of us who are Americans are listed on the two mentioned registries, so should those areas and sites of great cultural and historic importance to the Micronesians be identified for them as if they were to be listed on similar but Palauan registries.

SEC. 105. CONSTRUCTION CONTRACT ASSISTANCE

This section provides that the President of the U.S. shall consult with the government of Palau regarding the awarding of contracts for construction or major repair of capital infrastructure in Palau to firms that meet the definition of "United States firm" as defined by the Agency for International Development. If such firms agree to employ citizens of Palau to the maximum extent possible, to provide on-the-job training to Palauans, and to provide specific training or other assistance to enable the government to maintain its infrastructure, and otherwise qualify, they could be reimbursed for up to twenty percent of the amount of their contracts. Additionally, the Palau government could be reimbursed for any additional costs it incurs by giving a preference to U.S. firms, provided that the extra cost doesn't exceed 10 percent of the amount of the lowest qualified bid from non-United States firms for the same contract.

SEC. 106. LIMITATIONS

This section has two purposes: First, it makes the Ethics in Government Act applicable for a three-year period to any individual who served as the President's Personal Representative for Micronesian Status Negotiations or who is, or was, an officer or employee of the Office for Micronesian Status Negotiations (or was assigned or detailed thereto) or who served on the Micronesia Interagency Group. Secondly, it abolishes the Office for Micronesian Status Negotiations effective upon the date of the termination of the Trust Territory of the Pacific Islands.

In view of past cases of abuse, the Committee considered including in this section restrictions on the percentage of Compact funds that could be spent on legal fees and similar purposes. Such restrictions are omitted but the Committee expects the Micronesian governments to avoid excessive spending for such purposes, just as Congress will not permit the United States to pay excessive costs for fees.

SEC. 107. TIMING

This section precludes any payments pursuant to the Compact until October 1, 1986.

SEC. 108. IMPLEMENTATION OF AUDIT AGREEMENTS

This section requires the President of the United States to promptly transmit to Congress a copy of the annual financial statement received from the government of Palau. Additionally, it requires the President to have this annual financial statement audited and submitted to the Congress within a certain period of time.

SEC. 109. COMPENSATORY ADJUSTMENTS

Under subsection (a) the following services and programs shall be made available to Palau: the Federal Deposit Insurance Corporation, Small Business Administration, Economic Development Administration, the Rural Electrification Administration, Job Training Partnership Act, Job Corps, and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

Subsection (b) provides an authorization for funds to offset any adverse economic impact the government of Palau may suffer because of the revisions in the Compact.

SEC. 110. TRANSITIONAL AUTHORIZATION

To bring about a more orderly transition than has occurred to date, this section authorizes the partial continuation for three fiscal years of U.S. programs and services in the FSM, the Marshalls and Palau that are currently operating in those areas and not otherwise continued under the terms of the Compact or this joint resolution. This would authorize them to be continued in fiscal 1987 at 75 percent of their value in fiscal 1986, in fiscal 1988 at 50 percent of their value in fiscal 1986, and in fiscal 1989 at 25 percent of their value in fiscal 1986.

TITLE II

SECTION-BY-SECTION ANALYSIS OF THE COMPACT OF FREE ASSOCIATION (SEC. 201) AND SECTION 202

PREAMBLE

The Preamble states that the relationship that will exist between the United States and Palau will be a relationship of free association, and affirms and recognizes certain interests and desires of both governments.

TITLE ONE

GOVERNMENT RELATIONS

ARTICLE I

Self-government

Sec. 111: This section provides that the people of Palau, acting through their duly elected government established under their constitution, are self-governing.

ARTICLE II

Foreign Affairs

Sec. 121: This section provides that the government of Palau has the capacity to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact. It also recognizes that the Palau government may enter into, in its own name and right, treaties and other international agreements with governments and regional international organizations.

Additionally, it states that in the conduct of its foreign affairs, the government of Palau confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Sec. 122: This section provides that the United States shall support Palau's participation and membership in regional or international organizations as may be mutually agreed. It also provides that the citizens of Palau will be trained in the United States Foreign Service Institute on terms and conditions that will be mutually agreed.

Sec. 123: This section provides that Palau shall consult with the United States in the conduct of its foreign affairs. It also provides that the United States will consult with the Palau government on matters which the U.S. government regards as relating to or affecting the government of Palau.

Sec. 124: This section stipulates that the Palau government has the authority to conduct its foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and nonliving resources from the sea, seabed or subsoil, subject to applicable international law, and subject to the provisions of the joint resolution which place certain limitations on Palau's authority.

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Sec. 125: Except as provided elsewhere in this joint resolution, all obligations, responsibilities, rights and benefits of the United States under any treaty made applicable to the Trust Territory during the trusteeship shall terminate.

Sec. 126: This section provides that the United States shall not be responsible for the foreign affairs actions of the government of Palau, except to the extent as may from time to time expressly and mutually be agreed to be these governments.

Sec. 127: The United States is authorized in this section to assist Palau, should Palau request assistance, in foreign affairs matters. Additionally, it states that the U.S. government shall not be responsible to third parties for the actions of the Palau government taken without its express agreement.

Sec. 128: This section enables the U.S. government, at the request of Palau, to extend consular assistance on the same basis as for U.S. citizens of Palau for travel outside Micronesia, the U.S., its territories and commonwealths.

ARTICLE III

Communications

Sec. 131: This section provides that Palau shall have full authority to regulate its communications. It also provides that the United States shall assist Palau in communications in accordance with a separate agreement which shall come into effect with the Compact and remain in effect as long as it is desired by Palau. This assistance shall include notification to the International telecommunications Union with respect to frequency assignments to radio stations and broadcast schedules and Federal Communications Commission jurisdiction over communications services of satellite earth terminal stations owned or operated by the U.S. common carriers in Palau.

Sec. 132: This section provides that the United States may operate telecommunications systems in Palau in connection with its obligations under the Compact in accordance with separate agreements which shall come into effect with the Compact.

ARTICLE IV

Immigration

Sec. 141: This section exempts Palau citizens meeting certain criteria from certain U.S. passport, visa and work permit requirements and enables them to enter, reside, be employed, attend school or remain as visitors in the U.S.

This section also provides that U.S. laws or U.S. territorial laws authorized by U.S. law may subject the right of citizens of Palau to establish residence in U.S. territories to non-discriminatory limitations.

Finally, the section specifically provides that the residency right which is provided here does not establish the residence necessary for naturalization as a U.S. citizen or to establish permanent residency. This however, does not preclude citizens of Palau from acquiring permanent residency in the U.S. by other means. This sec-

tion of the Compact should be read in the light of section 103(b) of Title One of the joint resolution as reported.

Sec. 142: This section provides that citizens or nationals of the U.S. may enter, work and reside in Palau. It also provides that Palau may deny entry to or deport U.S. citizens or nationals as undesirable aliens based on local law. This section also provides that Palau shall treat U.S. citizens as nationals no less favorably than they treat citizens of other nations as regards immigration.

Sec. 143: The immigration privileges set forth in sections 141 and 142 shall be lost to a person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau or the United States or fails to renounce such an existing citizenship or nationality within two years after the effective date of the Compact or within six months of becoming 21 years of age, or whichever comes later.

Sec. 141: This section provides that citizens of the U.S. may, after notification to the U.S. government, be employed by the Palau government without losing their U.S. citizenship. Prior notification shall not apply to these U.S. citizens who hold positions and are employed by the government of Palau on the effective date of the Compact.

ARTICLE V

Representation

Sec. 151: This section provides for the establishment of resident representatives in the capital of the United States and Palau.

Sec. 152: This section provides that representative offices, and their communications in transit shall be inviolable. Designated representatives may serve with the consent of the receiving government and are entitled to limited or functional immunity, tax and duty, exemptions and privileges except in the case of grave crime and pursuant to a competent judicial determination in connection with the performance of official duties.

ARTICLE VI

Environmental Protection

Sec. 161: This section states that it is the policy of the U.S. and Palau governments to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of Palau.

Sec. 162: The governments of the U.S. and Palau agree that with respect to U.S. activities in Palau, and with respect to substantively equivalent activities of the government of Palau, both governments shall be bound by such environmental protection standards as may be mutually agreed for the purpose of carrying out the environmental policy set forth in this joint resolution.

Sec. 163: This section provides that the governments of the U.S. and Palau, in order to carry out the policy set forth in this Article, agree to certain undertakings: It provides that the United States continue to apply the environmental controls in effect the day prior to the effective date of this Compact to any activity that requires the preparation of an Environmental Impact Statement

(EIS) under the provisions of the National Environmental Policy Act.

It further provides that the United States shall develop appropriate mechanisms to regulate such activities in Palau and shall provide the Palau government with the opportunity to comment formally during the development of such mechanisms.

It also provides that the Palau government shall develop standards and procedures to protect the Palau environment. The Palau government is expected to develop standards for environmental protection substantively similar to those required of the U.S. government by Sec. 163(a)(1). It allows Sec. 163(a) and Sec. 163(b) to be modified or superseded in whole or in part by agreement of the governments of the U.S. and Palau.

It provides that disputes arising under this Article, except for Sec. 163(e), shall be resolved exclusively pursuant to Article II of Title Four.

It also provides that the President of the U.S. may exempt any of the U.S. government's activities under this Compact and its related agreements from any environmental standard or procedure which may be applicable under this Article if the President determines it to be in the paramount interest of the U.S. government.

ARTICLE VII

General Legal Provisions

Sec. 171: This section provides that U.S. laws applied to Palau by virtue of the trusteeship Agreement cease as of the effective date of the Compact, except to the extent provided for in the Compact and joint resolution.

Sec. 172: This section provides that citizens of Palau not residing in the United States shall be entitled to the same rights and privileges as non-resident aliens and that they shall be treated as "persons" within the meaning of the Administrative Procedures Act and of the Freedom of Information Act.

Sec. 173: This section provides that the governments of the United States and Palau shall protect the personnel, property, programs and so forth maintained by the U.S. government in Palau pursuant to this Compact and its related agreements.

Sec. 174: This section provides that the government of Palau shall be immune from jurisdiction of U.S. courts, and vice versa, except when the defendant government is sued in connection with commercial activities where personal injury, death or damage to or loss of property is involved.

It also provides that the U.S. shall pay Trust Territory high court judgments against the Trust Territory government or the United States entered or settlements reached prior to the effective date of the Compact, and settlements of claims against the Trust Territory government or the United States pending as of the effective date of the Compact.

Any other claims against the Trust Territory government or the United States arising from actions or omissions prior to the effective date of the Compact shall only be adjudicated in the courts of the Freely Associated States if the suit is in connection with commercial activities where personal injury or death, or damage to or

loss of property, is involved. Judgments not satisfied by the United States may be presented for certification to the United States Court of Appeals for the Federal Circuit which decisions shall be reviewable as provided by United States law. The United States Court of Appeals shall order payment of such judgment, unless it is manifestly erroneous in law or fact, or is manifestly excessive. In this situation that court may modify the judgment.

Sec. 175: This section provides that a separate agreement regarding the pursuit, capture, imprisonment, and extradition of fugitives and the transfer of prisoners, which shall have the force of law, shall come into effect with the Compact. United States laws regarding extradition and the transfer of prisoners shall apply in the United States under the separate agreement.

This section should be read in light of section 102(a) of Title I of the joint resolution as reported by this Committee.

Sec. 176: This section provides that judgments established in civil litigation during the trusteeship by the courts of the Trust Territory shall be preserved subject to the power of the courts of Palau to modify judgments in appropriate cases.

Sec. 177: This section provides authorization to the United States agencies providing services and programs in Palau to settle and pay tort claims arising from their activities in Palau pursuant to the administrative procedures set forth in United States law. Claims which cannot be resolved through that procedure will be referred to arbitration under the conference and dispute resolution process set forth in Title Four, Article II, of the Compact. In both cases, payment shall be made pursuant to United States law. The United States will be immune from suits based on claims covered by the provisions of this section

TITLE TWO

Economic Relations

ARTICLE I

Grant Assistance

Sec. 211: This section provides that the United States will grant the Palau government $12 million annually for ten years beginning on the effective date of this Compact, for current account operations and maintenance purposes. Beginning on the fourth anniversary date of this Compact, a minimum annual distribution of $5 million from the Palau investment fund can also be made for these purposes.

Additionally, the U.S. will provide $2 million annually for 14 years beginning on the first anniversary of the effective date of this Compact to help achieve self-sufficiency in energy production.

Another $150,000 annually for fifteen years shall be granted by the U.S. towards operations and maintenance costs of the Palau communications systems, and $1.5 million is to be made available to acquire communications hardware desired by the Palau government.

$631,000 shall be given on an annual basis for fifteen years for the surveillance and enforcement by Palau of its maritime zone;

for health and medical programs, including referrals to hospital and treatment centers; and for a scholarship fund to support the post-secondary institutions in Palau, the U.S., its territories and commonwealths and the Freely Associated States.

Additionally, $666,800 shall be given to begin the surveillance and enforcement of its maritime zone.

A total of $70 million shall be given to Palau to create an investment fund. A separate agreement sets forth the provisions for the investment, management and review of the fund in order to allow for an agreed minimum annual distribution from its accrued principal and interest commencing upon the effective date of this Compact for fifty years. The goal is to produce an average annual distribution of $15 million beginning on the 15th anniversary of this Compact for thirty-five years.

Sec. 212: This section provides two things: 1) a 53-mile road system, cost not listed, to be built in Palau and completed prior to the 6th anniversary of the effective date of this Compact; and 2) the sum of $36 million during the first year for capital account purposes.

Sec. 213: The U.S. government shall provide the Palau government with the sum of $5.5 million in conjunction with Article II of Title Three. This sum shall be made available concurrently with the grant assistance provided pursuant to this Article.

The Committee on Interior and Insular Affairs believes that both this section and Sec. 322(b) of this Compact must be interpreted in light of both the United States constitution and the Palau constitution. Under the U.S. constitution, private property cannot be taken for public purposes without just compensation. (It would also seem that the same would be true of the Palau constitution, since Article XIII, Section 7, states that the "national government shall have the power to take property for public use upon payment of just compensation.") If the aggregate value of all privately owned land taken by the United States under provisions of this Compact should at some future time exceed the $5.5 million provided in Sec. 213, the $5.5 million would not, in the Committee's view, be deemed a substitute for the constitutional requirements.

Sec. 214: This section provides that unobligated Trust Territory Government funds will remain available to Palau according to the purposes of the Act appropriating such funds, as determined by the United States.

Sec. 215: This section provides for an annual inflation adjustment of the grants that the United States is to provide Palau under sections 211(a), 211(b), 211(c), and 212(b) by two-thirds of the percentage annual change in the United States Gross National Product Implicit Price Deflator, since the beginning of fiscal year 1981, or seven percent, whichever is less.

ARTICLE II

Program Assistance

Sec. 221: This section provides that the United States will continue to provide to Palau services of the United States Weather Service, the United States Postal Service, the Federal Aviation Administration and agencies performing functions formerly performed by

the Civil Aeronautics Board at levels equivalent to those provided in the Trust Territory one year prior to the effective date of the Compact in accordance with the terms and to the extent specified in separate agreements.

This section also provides that the United States will grant Palau $2 million annually for the fields of education and health care. Additionally, the sums of $4.3 million, $2.9 million and $1.5 million, respectively, during the first, second and third years after the effective date of this Compact, shall be made available to the government of Palau for education programs.

This section further provides that U.S. alternate energy development projects, studies, and conservation measure, which were extended to the Trust Territory, will continue after the effective date of the Compact and be available to Palau, subject to the terms set forth in U.S. laws with respect to the purposes and duration of such programs. This includes continuation of programs recommended in the Secretary of Energy's 1982 Territorial Energy Assessment.

Sec. 222: This section provides that Palau may request, from time to time, technical assistance from U.S. federal agencies and institutions which are authorized to grant such technical assistance in accordance with its laws.

Sec. 223: This section provides that citizens of Palau receiving U.S. post-secondary educational assistance on the day prior to the effective date of the Compact will be able to continue to receive such assistance for up to four years after the effective date.

Sec. 224: This section provides that the U.S. and Palau may agree on the extension of U.S. grant assistance, services and programs to Palau in addition to that provided for in the joint resolution.

ARTICLE III

Administrative Positions

Sec. 231: This section provides that the annual expenditure of the grant amounts in Article I of this Title shall be in accordance with an official national development plan promulgated by the Palau government and concurred in by the U.S. government prior to the effective date of this compact. The Palau government may amend it from time to time.

Additionally, this section provides that the Palau government shall submit an annual report to the President and the Congress on the expenditure of compact grant assistance.

Sec. 232: This section provides that a separate agreement, which will come into effect with the Compact, sets forth the nature, extent, and terms of the United States programs to be provided to Palau pursuant to Section 221 as well as the legal status of U.S. agencies, personnel, and dependents in Palau.

Sec. 233: This section provides that the U.S. government, in consultation with the Palau government, shall determine and implement procedures for the periodic audit of all grants and other assistance made under this Title. These audits will be at no cost to the Palau government.

Sec. 234: This section provides that the United States (without reimbursements) will transfer to Palau title to property in the Trust

Territory and Palau that will be of no further use to the U.S. government.

Sec. 235: This section provides that trust funds for various groups of Trust Territory citizens will continue to be held in trust by a trustee appointed by the U.S. in consultation with Palau. The United States also agrees to carry out such functions of government formerly exercised by the High Commissioner as are necessary to implement the provisions of a particular trust.

Sec. 236: This section provides that the United States pledges its full faith and credit to Palau for payment of the amounts specified in Article I of this Title, and stipulates that this obligation shall be enforceable in the U.S. Claims Court or its successor court.

ARTICLE IV

Trade

Secs. 241–243: Sections 241, 242 and 243 provide that Palau will not be within the customs territory of the United States and contain the same privileges and limitations with respect to exports to the United States as are contained in the Compacts with the Federated States of Micronesia and the Marshall Islands as limited by Public Law 99–239 approving those Compacts. Among other things this includes a cap on duty free tuna imports, and certain other articles are expressly excluded from duty free treatment. Palauan articles not covered by General Headnote 3(a), and United States articles imported into Palau, will be entitled to generally applicable most favored treatment.

ARTICLE V

Finance and Taxation

Sec. 251: This section provides that U.S. currency will be the legal tender of Palau as long as that is desired by the Palau government.

Sec. 252: This section permits the government of Palau to tax and U.S. persons' income which is derived from sources in Palau, and stipulates that this can be determined according to the U.S. Internal Revenue Code.

Sec. 253: This section provides that a Palau citizen who is domiciled in Palau and is a nonresident and not a citizen of the U.S. shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the U.S. government.

Sec. 254: This section provides that persons who meet bona fide residency requirements in Palau, including physical presence for more than 183 days of the taxable year, may not have to pay certain applicable U.S. taxes on income which is taxed by Palau.

Sec. 255: This section, in contrast to Sections 253 and 254, which are designed to provide incentives for investment in Palau for individuals, provides incentives for investments primarily by corporations. Thus, Palau will be treated as a possession of the United States for purposes of Section 936 of the U.S. Internal Revenue Code, which is intended to generate U.S. investment in developing areas that enjoy a special relationship with the United States. If the provisions of the Internal Revenue Code applicable to Palau

under this section are amended, alternative but substantially equivalent beneficial arrangements are to be negotiated.

Sec. 256: This section makes Article V applicable after September 30, 1985.

TITLE THREE

Security and Defense Relations

Sec. 311: This section stipulates that the territorial jurisdiction of Palau shall be completely foreclosed to the military forces and personnel or for the military purposes of any nation except the United States of America, and as provided for in Section 312 below.

Sec. 312: This section states that the U.S. government has full authority and responsibility for security and defense matters in or relating to Palau. It also states that subject to the terms of any agreements negotiated pursuant to Article II of this Title, the U.S. government may conduct within the lands, water and airspace of Palau the activities and operations necessary for the exercise of its authority and responsibility under this Title. Additionally, it states that the U.S. government may invite the armed forces of other nations to use military areas and facilities in Palau in conjunction with and under the control of U.S. Armed Forces.

Sec. 313: This section requires the Palau government to refrain from any actions which the U.S. government determines to be incompatible with its authority and responsibility under this Title.

ARTICLE II

Defense Sites and Operating Rights

Sec. 321: This section provides for a separate agreement to be concluded between the U.S. government and Palau to designate land and water areas to be establishment and used for defense sites by the U.S. in Palau.

Sec. 322: This section will enable the U.S. to designate, and requires the Palau government to provide, sites for the activities and operations authorized under section 321 and the separate agreement concluded pursuant thereto. As noted above under Sec. 213 of Title Two of the Compact, if the $5.5 million provided in Sec. 213 proves to be less than the aggregate fair market value of all private land taken under this section, this Committee believes the United States may have to pay the full market value of the interests acquired in such land, to the extent the total value surpasses $5.5 million.

Sec. 323: Pursuant to this section, the United States and Palau have concluded comprehensive agreements on military use and operating rights (MUORA) and status of forces (SOFA).

Sec. 324: This section stipulates that in exercising its authority and responsibility in Palau under this Title, the U.S. shall not use, test, store or dispose of nuclear, toxic chemical, gas, or biological weapons intended for use in warfare, and the Palau government gives the U.S. government the right to operate nuclear capable or nuclear propelled vessels and aircraft within the jurisdiction of

Palau without either confirming or denying the presence or absence of such weapons within the jurisdiction of Palau.

(NOTE.—A lawsuit was brought against the Palau government in May of 1986 claiming among other things that the 72 percent vote the compact received in the February plebiscite was inadequate based on the Palau constitution which required 75 percent on nuclear matters.)

(On July 10, 1986, a judge of the Palau Supreme Court ruled that Section 324, this section, was unconstitutional. The Palau government, as of the same date, filed an appeal of this decision, the outcome of which will probably not be known before the end of August 1986.)

ARTICLE III

Defense Treaties and International Security Agreements

Sec. 331: This section provides that security and defense agreements or treaties to which the United States is a party and which have applied to the Trust Territory during the Trusteeship, will continue in force and be applied by the United States in the exercise of its security and defense role in Palau. In addition, the U.S. retains the authority to extend to Palau any security or defense agreements or treaties it may determine to be applicable, after appropriate consultation with Palau.

ARTICLE IV

Service in the Armed Forces of the United States

Sec. 341: This section provides that citizens of Palau who are entitled to enter, work, and reside in the U.S. and its territories without regard to U.S. immigration laws pursuant to Sec. 131 will also be entitled to serve voluntarily in the armed forces of the United States, but cannot involuntarily be inducted into such service unless habitual residence in the U.S. or its territories is established.

Sec. 342: This section provides that one qualified citizen from Palau shall be enrolled in the U.S. Coast Guard Academy as well as the Merchant Marine Academy at all times, upon the nomination of the Palau government.

ARTICLE V

General Provisions

Sec. 351: This section provides that the U.S. and Palau shall establish a joint committee to resolve disputes arising from implementation of Title Three and the separate agreements concluded pursuant to sections within Title Three. The senior U.S. military commander in the Pacific will be the senior U.S. member of the committee, and the U.S. and Palau will each designate appropriate officials as senior members as well as additional and alternate members. The joint committee will meet twice yearly, unless otherwise agreed. Unresolved issues may be brought by Palau to the Secretary of Defense personally.

Sec. 352: This section contains a U.S. assurance that in fulfilling its security and defense role, and in making the specific determinations incident to its authority under Title Three of the Compact, the United States shall accord due respect to the authority and responsibility of the Palau government as defined in the Compact.

Sec. 353: This section provides that the U.S. will not include Palau in a formal declaration of war without the consent of the Palau government. In the absence of such a consent, this section provides that Palau citizens may petition the U.S. as if they were U.S. citizens with claims arising from armed conflict incident to belligerence or war.

TITLE FOUR

General Provisions

ARTICLE I

Approval and Effective Date

Sec. 411: This section stipulates that the Compact shall come into effect upon mutual agreement between the U.S. government and the Palau government, subsequent to completion of the following: (a) approval by the Palau government in accordance with its constitutional processes; (b) approval by the Palau people in a referendum called on this Compact; and (c) approval by the U.S. government in accordance with its constitutional processes.

ARTICLE II

Conference and Dispute Resolution

Secs. 421-424: These sections establish the method for settlement of disputes arising in connection with the implementation and enforcement of the provisions of the Compact except for matters arising out of Title Three, which will be handled as provided in Section 351. Sections 421 and 422 require that upon notification of a dispute, the parties confer on that matter. Section 423 provides that if the issue has not been resolved after a 90-day period, the matter is referred to arbitration under Section 424. Section 424 provides for a three-person Arbitration Board consisting of one member appointed by each of the parties and a chairman jointly appointed by the parties or selected by lot from standing lists if mutual agreement cannot be reached. Decisions will be by majority vote and shall be binding on the parties unless it is agreed that the decision shall be advisory.

ARTICLE III

Amendment and Review

Sec. 431: This section provides that the provisions of this Compact may be amended at any time by mutual agreement of the U.S. and Palau governments in accordance with their respective constitutional processes.

Sec. 432: This section provides that upon, the 15th, 30th, and 40th anniversaries of the effective date of this Compact, the U.S. and Palau governments shall formally review the terms of this Com-

pact and its related agreements and shall consider the overall nature and development of their relationship. It sets forth steps that these governments may take in relation to their findings.

ARTICLE IV

Termination

Sec. 441: This section stipulates that this Compact may be terminated by mutual agreement and subject to Sec. 451.

Sec. 442: This section states that subject to Section 452, this Compact may be terminated by the U.S. government and spell out some of the conditions.

Sec. 443: This section stipulates how this Compact can be terminated by the government of Palau. This includes the calling of a plebiscite in Palau to enable the people of Palau to express their intention regarding termination.

ARTICLE V

Survivability

Sec. 451: This section states that should termination occur pursuant to Section 441, economic assistance by the U.S. government would continue on mutually agreed terms.

Sec. 452: This section states that should termination occur pursuant to Section 442 or 443, certain provisions of the Compact shall remain in full force and effect until the fiftieth anniversary of the effective date of this Compact.

Sec. 453: Under this section, the foreclosure of Palau to third country forces would continue for fifty years and thereafter until terminated or amended by mutual consent, and separate agreements under Article II of Title Two will continue in accordance with their terms, notwithstanding termination of other provisions of the Compact.

Sec. 454: This stipulates that any provision of this Compact which remains in effect per section 452 shall be construed and implemented in the same manner as prior to any termination of this Compact pursuant to Section 442 or 443.

ARTICLE VI

Definition of Terms

Secs. 461–462: These sections define various terms used in the Compact and also list the seperate agreements concluded pursuant to the Compact.

ARTICLE VII

Concluding Provisions

Sec. 471: Under this section, the U.S. and Palau governments agree that they are authorized by their constitutions and laws to enter into and implement the Compact and its related agreements. This section also provides that Palau and the United States will conform their laws to the Compact prior to its effective date, so that they will be able to implement the Compact in a manner con-

sistent with their domestic laws. Finally, this section, provides that the Compact will have the force and effect of a statute under the laws of the United States.

Sec. 472: This section provides for acceptance of the Compact by the signature of each government party to the agreement.

Section 203 of Joint Resolution Approving the Palau Compact: This section provides for U.S. court jurisdiction in criminal cases over which the U.S. acquires the primary right to exercise criminal jurisdiction under the provisions of the Status of Forces Agreement concluded pursuant to Section 323 of the Compact.

INFLATIONARY IMPACT, COST AND BUDGET ACT COMPLIANCE

While Federal outlays contemplated by the Compact are significant, inflationary impact of the expenditures would be spread over a period of years and should be relatively inconsequential in any single year. The following chart, dated February 24, 1986, indicates the outlays contemplated if H.J. Res. 626 becomes law. The analysis of the Congressional Budget Office also follows:

COMPACT OF FREE ASSOCIATION—UNITED STATES ECONOMIC ASSISTANCE TO PALAU (FEB. 24, 1986)

(U.S. outlays in millions of dollars; fiscal years)

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	Total
Grant Assistance:																
Current account	13.65	14.15	14.15	14.15	9.15	9.15	9.15	9.15	9.15	9.15	8.15	8.15	8.15	8.15	8.15	151.75
Capital account	36.00															36.00
Investment account	66.00		4.00													70.00
Inflation account [1]	7.22	2.45	2.82	3.14	2.21	2.39	2.56	2.74	2.92	3.10	2.92	3.07	3.23	3.39	3.55	47.69
Subtotal	122.87	16.60	20.97	17.29	11.36	11.54	11.71	11.89	12.07	12.25	11.07	11.22	11.38	11.54	11.70	305.44
Program grants:																
Sec. 211(d)	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	9.47
Sec. 211(e)	.67															.67
Sec. 213	5.50															
Federal services:																
Sec. 212(a)	2.70	6.30	4.50	4.50	4.50	4.50										27.00
Subtotal	9.50	6.93	5.13	5.13	5.13	5.13	.63	.63	.63	.63	.63	.63	.63	.63	.63	37.14
Permanent indefinite subtotal	132.37	23.53	26.10	22.42	16.49	16.67	12.34	12.52	12.70	12.88	11.70	11.86	12.01	12.17	12.33	342.58
Program grants: Sec. 221(b)	6.30	4.90	3.50	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	38.70
Federal services:																
Sec. 221(a)	1.34	1.49	1.64	1.79	1.93	2.08	2.23	2.38	2.53	2.68	2.83	2.98	3.12	3.27	3.42	35.71
Sec. 223	1.70	1.20	.08	.04												3.02
Current appropriation subtotal	9.34	7.59	5.22	3.83	3.93	4.08	4.23	4.38	4.53	4.68	4.83	4.98	5.12	5.27	5.42	77.43
Total	141.71	31.12	31.32	26.25	20.42	20.75	16.57	16.90	17.23	17.56	16.53	16.84	17.13	17.44	17.75	420.01

[1] Inflation adjustment calculated according to Compact sec. 215 using December 1985 assumptions for the U.S. GNP price deflator.

Source: Office for Micronesian Status Negotiations, Washington, DC.

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CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Resolution number: H.J. Res. 626.

2. Resolution title: Palau Compact of Free Association Act.

3. Resolution status: As ordered reported by the House Committee on Interior and Insular Affairs, June 25, 1986.

4. Resolution purpose: The resolution approves the Compact of Free Association that has been signed by the United States and the Republic of Palau. The text of the compact, which terminates the United States' trusteeship of the Trust Territory of the Pacific Islands and establishes the Republic of Palau, is contained in Title II of the resolution. Title Two of the compact lists the amounts and purposes of the grants that the United States will provide to Palau and includes various trade and tax provisions. Title Three defines the roles of the U.S. government and the government of Palau in defense matters, and Title Four provides rules for approving, amending, and terminating the compact.

Title I of H.J. Res. 626 authorizes the U.S. government to provide certain grants and services to Palau in addition to those provided by the compact. Title I also pledges the full faith and credit of the United States for a payment to the Republic of the Marshall Islands of about $10 million in grants authorized by Public Law 99-239.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Full faith and credit—appropriated entitlements:					
Estimated budget authority [1]	180	20	25	20	20
Estimated outlays	150	30	35	30	20
Authorization subject to appropriations action:					
Estimated authorization level	[2] 30	15	10	5	25
Estimated outlays	30	15	10	5	25
Spending reductions from termination of current trust territory authorization: [3]					
Estimated authorization level	−15	−15	−20	−20	−20
Estimated outlays	−15	−15	−20	−20	−20
Net budget effect of H.J. Res. 626:					
Estimated budget authority/authorization level	195	20	15	5	25
Estimated outlays	165	30	25	15	25

[1] Public Law 99-349, the urgent supplemental appropriations bill, 1986, includes an appropriation to fund $3.1 million of these amounts in 1987 and about $0.4 million of the annual amount for fiscal year 1988 and each year thereafter, that would become available upon enactment of H.J. Res. 626 or similar legislation (but not before Oct. 1, 1986).

[2] Public Law 99-349 provides an appropriation for Palau of $0.34 million which will become available for these purposes upon enactment of H.J. Res. 626 or similar legislation (but not before Oct. 1, 1986).

[3] These amounts reflect CBO's baseline estimate of payments to Palau through the trust territory appropriation and other grant programs. Under current law, grant programs for Palau are authorized indefinitely and without limitation, and the amounts are set through annual appropriations. Because the compact changes the relationship between the United States and Palau, the existing authorizations for payments to Palau would expire upon the effective date of this resolution, except that the trust territory authorization (48 U.S.C. 1681, note) would continue for transition purposes only (sec. 104(c)(2) of the resolution). CBO assumes that no amounts will be appropriated under this continuing authorization.

The costs of this bill fall within budget function 800.

Basis of Estimate: The potential budget effects of H.J. Res. 626 would result from the grants and services the United States is agreeing to provide to Palau. According to Section 236 of the compact, approval of the compact constitutes a pledge of the full faith and credit of the United States for full payment of the amounts specified for most of the grants (those listed in Article I of Title Two of the compact and section 104(p) of Title I of the resolution),

with the obligations enforceable in the United States Court of Claims.

The largest increase relative to the CBO baseline projections for Palau under current law include a $66 million grant required for the establishment of a trust fund and about $3[illegible] million for capital projects, both assumed to be provided in 1987. In addition, the resolution includes an authorization for an estimated $12 million in 1987, $8 million in 1988, and $4 million in 1989 for transitional payments for programs not otherwise authorized by the compact.

The trade and tax provisions in the compact are estimated to have no significant budgetary effects.

6. Estimated cost to State and local governments: Enactment of this legislation would result in no significant cost to the government of Palau, and in no cost to state or local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 5, 1985, CBO transmitted to the House Committee on Foreign Affairs a cost estimate for H.J. Res. 187, a joint resolution to approve the Compact of Free Association between the United States and the Marshall Islands and the Federated States of Micronesia and to approve the Compact of Free Association between the United States and Palau.

On June 25, 1986, CBO transmitted to the House Committee on Foreign Affairs a cost estimate for H.J. Res. 626, the Palau Compact of Free Association, as ordered reported by the House Committee on Foreign Affairs, June 5, 1986. The estimate for the Committee on Interior and Insular Affairs shows higher spending than the estimate for the Committee on Foreign Affairs because of new provisions regarding transitional payments and a pledge of full faith and credit for payments authorized by Public Law 99-239.

9. Estimate prepared by: James Hearn.

10. Estimate approved by: C.G. Nuckolz (for James L. Blum, Assistant Director for Budget Analysis).

ADDITIONAL VIEWS

On May 28th of this year the Trusteeship Council of the United Nations adopted a resolution calling for termination of the trusteeship agreement for Micronesia. The Council expressly noted that the United States has discharged properly its obligations as administering authority in accordance with the terms of that agreement.

The final approval of the Palau Compact will clear the way for termination of the U.N. trusteeship agreement as it relates to Palau, just as completion of the approval process for the Northern Mariana Islands Commonwealth Covenant and the Compact of Free Association for the FSM and Marshall Islands provides the basis for termination of the trusteeship agreement as it relates to those island groups. In light of the Trusteeship Council action, it is entirely realistic to expect termination of the trusteeship sometime this year. The United States Ambassador to the United Nations, Ambassador Vernon Walters, hopes to take up this matter with the Security Council.

The termination of the trusteeship is not a partisan goal. It is a national purpose that has been pursued by the last four administration. We are very close to achieving that goal, and we came this far through a sometimes painful process of educating ourselves about the nature of the trusteeship, the nature of free association, the impact of this new arrangement upon our U.S. territories, and the role of Congress and the various concerned departments of the executive branch in compact implementation.

Public Law 99-239, approving the Compact for the FSM and Marshall Islands, is a tribute to our deliberative process and the ability of Congress to resolve contentious issues when the national interest is at stake. As requested by the administration and the elected Representatives of the Micronesian people, Congress passed the Compact in a form which preserves the principles of free association as set forth in negotiated package and approved in the U.N. observed plebiscites. This include the principle of government-to-government relations, based upon the exercise by the people of the former trust territory of their inherent sovereignty, acting through the constitutional forms of government they have established. It also includes the principle that the Compact will be implemented as an international agreement in accordance with international law.

At the same time, due to the concern and commitment of several Members of Congress, most notably the chairman of the Subcommittee on Public Lands, Mr. John Seiberling, Congress also ensured that the Compact address many issues which we would normally think of as matters of domestic law and policy. These issues, such as the status of certain Federal programs extended to Micronesia under the trusteeship or the programs of Marshall Islanders affect-

ed by our nuclear testing program, arise in the context of transition from the trusteeship ERA to the new relationship.

Although we all recall the difficulty of forging a consensus on these issues, with the cooperation of our Senate colleagues, the concerns of this committee, including the strongly-held views of Mr. Seiberling, were addressed in a meaningful way in Public Law 99-239. Approximately 85 amendments, mostly of a complicated and detailed nature, were made to the Compact legislation. Without any question, it can be said that Congress worked its will on the Compact. And the will of Congress was respected when the President signed that act on January 14, and when the Micronesian Legislatures approved it as amended.

H.J. Res. 626, as reported by the Foreign Affairs Committee, would provide for the enactment of the Palau Compact in virtually the mirror image of the FSM and Marshall Islalds Compact, making obvious adjustments where provisions of the prior legislation would not be applicable. H.J. Res. 626, as reported by the Subcommittee on Public Lands, would do very nearly the same. However, as stated during the subcommittee markup, there is a problem with section 194(p) of the subcommittee markup, which would use approval of the Palau Compact to reopen the issue of the status of funding authorized for the FSM and Marshall Islands in Public Law 99-239.

Section 194(p) would convert three authorizations contained in the prior bill into "full faith and credit" obligations of the United States, and give the U.S. Claims Court jurisdiction over claims against the United States should Congress fail to appropriate the funding for these activities. The three items are:

1. Funds for medical care, logistical support, feeding programs and agricultural assistance for certain of the peoples affected by the nuclear testing program.

2. Funds for a trust to support those members of the Enewetak coummunity who wish to resettle the Island of Fnjebi.

3. Prior service benefits for retired employees of the early U.S. administration of the islands.

It is not necessary to reopen discussion of the merits for these provisions. However, it should be pointed out that funding for items 2 and 3 is in the 1986 supplemental appropriation bill, which represents the success of Mr. Seiberling and others in advocating funding for these purposes. Thus, if the purpose of applying the full faith and credit obligation to these programs and creating court access for claims against the U.S. is to compel their funding, such purpose will have been fulfilled by Congress this year. This action by Congress obviates the need for full faith and credit or lawsuits to enforce it.

With respect to item 1, it must be noted that in addition to the many millions of dollars earmarked in the Compact's nuclear claims settlement for these same medical care and related purposes, the peoples concerned will receive large cash settlements. During the negotiations the U.S. offered and the nuclear claimants rejected the agricultural assistance and feeding programs to be funded by this provision. Instead they asked for the dollar value of this assistance so they could determine if they wanted to purchase the program or use the money for other types of support for the

communities involved. Thus, the dollar value of this assistance was incorporated into the cash settlement and the programs are avialable on a reimbursable basis. Nevertheless, at the request of Mr. Seiberling and others, Congress authorized this additional money to provide the programs on a non-reimbursable basis. Since there is some disagreement as to the need for additional money for the medical and logistical support also at issue here, Congress authorized the additional funds for that purpose as well.

Having secured these authorizations, subject to appropriation based upon the judgment of Congress that the funds already provided in the FSM and Marshalls Compact for these purposes are actually insufficient, the proponents of section 104(p) of the Palau Compact bill now want to go back and revise that carefully negotiated package.

While the compassion and commitment shown in these matters by members of the committee is to be commended, a greater disservice to the people of Micronesia may result by unraveling issues agreed to be consensus by Members of the House and Senate. It invites discord and delay when we need consensus and prompt action. The U.S. faces a serious challenge in the Security Council, and all sides—including the administration and the Micronesians—have accepted their losses from the outcome of our deliberations last year and rallied for that effort. This is the Palau Compact, why are we attempting to use it to revise the FSM and Marshalls Compact package before it is even in effect? The wiser course would be to implement the Compact and act with respect to these additional authorizations based upon experience. For these reasons, it is lamentable that we face another debate over a deal that was made and sealed once before between Members of the House and the Senate.

However, there is another important reason for the objections to section 104(p). For in approving the Compact, the Congress accepted a government-to-government relationship which very narrowly and strictly limits access to U.S. courts by the Micronesian Governments. Some compact funding is subject to a pledge of the full faith and credit of the United States, and the Governments of the freely associated states are given access to U.S. courts to enforce that pledge. All other disputes are to be resolved pursuant to the exclusive government-to-government procedures set forth in the Compact.

The court access provision of section 104(p) could undermine this legal regime and open up the U.S. courts to multiple lawsuits against the United States over virtually the very same issues already settled—at the cost to the U.S. of $150 million—in the Compact nuclear claims provision. It could also be construed as contradicting the assertion of Congress in Public Law 99-239 that the Compact settles all such claims and removes them from the jurisdiction of U.S. Courts.

The resolution of these important but few issues is attainable. We have been encouraged by the cooperative spirit shown by Mr. Seiberling. At the time of the full committee markup, he indicated his willingness to work things out. It has been that spirit that has prevailed throughout the deliberations on the Compact, and which

has produced the fair and worthwhile document that we have today.

These additional views have addressed the few problems of the Palau Compact as reported by the committees. It is important to note that the majority of the Compact has passed through the refiner's fire of the intense scrutiny by Congress and the executive branch. It is with the sure knowledge of the thoroughness of the process and the fairness of the benefits, rights and responsibilities extended to both the United States and Palau, that the Compact of Free Association for Palau is strongly and vigorously supported.

ROBERT J. LAGOMARSINO.
BEN BLAZ.

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